

CA20N  
EAB  
-H26



# ENVIRONMENTAL ASSESSMENT BOARD

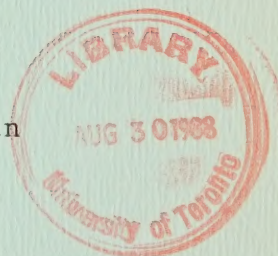
VOLUME: XXXVI

DATE: Thursday, August 18th, 1988

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

**FARR &**  
ASSOCIATES  
REPORTING INC.

(416) 482-3277

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4



Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto

<https://archive.org/details/31761116520933>



CA20N  
EAB  
-H26



# ENVIRONMENTAL ASSESSMENT BOARD

---

VOLUME: XXXVI

DATE: Thursday, August 18th, 1988

BEFORE: M.I. JEFFERY, Q.C., Chairman  
E. MARTEL, Member  
A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

---

**FARR**  
ASSOCIATES &  
REPORTING INC.

(416) 482-3277

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4







HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

-----

Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Thursday, August 18th, 1988,  
commencing at 8:30 a.m.

-----

VOLUME XXXVI

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MR. B. CAMPBELL )	MINISTRY OF ENVIRONMENT
MS. J. SEABORN )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. J. WILLIAMS, Q.C.	ONTARIO FEDERATION OF
	ANGLERS & HUNTERS
MR. D. HUNTER	NISHNAWBE-ASKI NATION
	and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
MR. P. SANFORD )	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD )	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF
	LABOUR
MR. R. COTTON	BOISE CASCADE OF CANADA
	LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	





APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.) MR. B. BABCOCK )	RED LAKE-EAR FALLS JOINT MUNICIPAL COMMITTEE
MR. D. SCOTT ) MR. J.S. TAYLOR)	NORTHWESTERN ONTARIO ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL) MR. S.M. MAKUCH )	GREAT LAKES FOREST PRODUCTS
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. D. COLBORNE	GRAND COUNCIL TREATY #3
MR. R. REILLY	ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. H. GRAHAM	CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY
MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON





(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JOHN EDWARD OSBORN,</u> <u>KENNETH A. ARMSON,</u> <u>DAVID GORDON,</u> <u>JOHN RANDOLPH CARY, Resumed</u>	5911
Continued Cross-Examination by Mr. Castrilli	5911
Cross-Examination by Mr. Edwards	5926
Cross-Examination by Mr. Campbell	5980





(v)

I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
177	Appendix 10 to Regeneration Survey Manual for Ontario, 1981 edition, Ministry of Natural Resources.	5921
179	Interrogatories filed by MOE.	5979





1       ---Upon commencing at 8:30 a.m.

2                   THE CHAIRMAN: Thank you, ladies and  
3 gentlemen. Please be seated.

4                   MR. CASTRILLI: Mr. Chairman, I see that  
5 Mr. Tuer and company are not here yet. It might be  
6 appropriate for me to wait.

7                   THE CHAIRMAN: Mr. Freidin, you have a  
8 statement to make, I understand.

9                   MR. FREIDIN: Yes, Mr. Chairman. I  
10 looked at the transcript of the proceedings yesterday  
11 and I have no objection to the question. I think the  
12 issues which were raised don't necessarily fall out  
13 from the questions that were asked.

14                   Whether any of those issues will need be  
15 canvassed, I think it is premature, it may well be  
16 after all the evidence is in, but I have no objection  
17 to the question.

18                   THE CHAIRMAN: Well, The Board accepts I  
19 guess the withdrawal of your objection, but we also  
20 wish to indicate on the record that notwithstanding the  
21 issue has not been fully argued the Board was leaning  
22 heavily towards indicating, in strong terms, that it  
23 views its mandate to include looking at the demand  
24 issues fully as they may impinge in the overall context  
25 of the environment.

1                   And, subject to what you might have said  
2                   this morning and, of course, the other parties'  
3                   submissions, it is unlikely you would have succeeded in  
4                   sustaining that objection.

5                   So notwithstanding the objection of the  
6                   particular question is withdrawn, I wanted to put the  
7                   Board's position on the record so that if you have  
8                   future objections relating to the same issue you might  
9                   just take into account what we have said today.

10                  MR. FREIDIN: I have no difficulty with  
11                  what you have said, Mr. Chairman.

12                  THE CHAIRMAN: Thank you. Mr. Castrilli,  
13                  are you ready to proceed then?

14                  MR. CASTRILLI: Yes, Mr. Chairman.

15                         JOHN EDWARD OSBORN,  
16                         KENNETH A. ARMSON,  
17                         DAVID GORDON,  
                          JOHN RANDOLPH CARY, Resumed

18                  THE CHAIRMAN: Perhaps you might go back  
19                  and repeat the original question.

20                  MR. CASTRILLI: Yes, I will do that for  
21                  Dr. Osborne's benefit. I think the way I actually  
22                  asked that part of the question would require me to go  
23                  back and put in the context.

24                  CONTINUED CROSS-EXAMINATION BY MR. CASTRILLI:

25                  Q. Dr. Osborn, as you will recall I had

1       been asking you questions regarding the number of  
2       different ways that the Ministry of Natural Resources  
3       has indicated in the proceedings to date its methods of  
4       determining the amount of the wood to be supplied by  
5       Ontario's Crown forests and you will recall we went  
6       through at least four:

7                     The MAD calculation at the management  
8       unit level; the matching of mill demands with  
9       management unit level flows from Panel 3; the 12972  
10      Cabinet policy on forest production; and, fourthly, the  
11      multiple simulation scenarios that you presented in  
12      this panel.

13                    And my question to you was: Which  
14      particular path is the Ministry of Natural Resources  
15      following?

16                    DR. OSBORN: A. I didn't think that's  
17      what you asked me yesterday, that question, following  
18      all four.

19                    THE CHAIRMAN: Well...

20                    DR. OSBORN: Do you want me to explain,  
21      sir, what I think was asked yesterday: Was which of  
22      the four are we advocating is the way of practicing  
23      sustained yield. I thought that's what the question  
24      was yesterday and I can answer that one as well, sir.

25                    The first of those four methods, the



1 yield regulation, the maximum allowable depletion  
2 calculation at the management unit level by a forest  
3 unit is the methodology at that level that is used to  
4 regulate the wood supply.

5 There's no ifs or buts or shadow of doubt.  
6 And, as was explained in Panel 3, during the five-year  
7 planning period, Mr. Armson explained a woodflow  
8 review, look at, and pragmatic adjustment to the  
9 woodflow between units under certain circumstances  
10 which did not change the MAD.

11 So in answer to what I thought the  
12 question was yesterday all about, very much is the  
13 first of the four that were listed.

14 THE CHAIRMAN: And would that answer  
15 change with respect to today's question?

16 DR. OSBORN: No, sir. As I say, the  
17 question I was asked this morning was which of the four  
18 do we use, and we use all four.

19 MR. CASTRILLI: Q. That leads me to the  
20 question, since there are all for of them, of what wood  
21 supply is the Ministry preparing to make available into  
22 the 20th century? It's the very question your outline  
23 for this panel raises itself.

24 What is the answer to that question?

25 DR. OSBORN: A. As I just advocated,

1 it's the question you asked yesterday, the MAD  
2 calculation is the way in which the wood supply is  
3 determined into the 20th century -- into the 21st  
4 century.

5 Q. And what level -- what amount does  
6 that suggest the Ministry is attempting to reach?

7 A. At this point time the target from  
8 the Forest Production Policy is 9.1-million cunits at  
9 the year 2020. So we will strive, with those MAD  
10 calculations, unit-by-unit, to achieve that.

11 Now, it may be because of the forest that  
12 in fact by 2020 the MAD, if you add up all the  
13 management units for all the forest units in fact  
14 exceeds 9.1. It also may be by the year 2020, through  
15 a set of circumstances, that in fact we do not achieve  
16 9.1. However, at this point in time in answer to the  
17 question, that 9.1 is, at this point in time, the  
18 figure we are striving towards, provincially.

19 Q. So, Dr. Osborn, would it be fair to  
20 say then that you are using what I categorized as path  
21 No. 1 to reach path No. 3?

22 A. Correct.

23 Q. Thank you. Can I just draw your  
24 attention, Dr. Osborn, to page 121 of your evidence,  
25 Document 62.

1                   THE CHAIRMAN: Dr. Osborn, one question  
2                   just before you do that. I know we are going to be  
3                   coming to the evidence as to what the industry's  
4                   requirements are,, if the industry's requirements are  
5                   in fact lower than the 9.1, will the Ministry  
6                   nevertheless strive for the 9.1?

7                   In other words, even if their  
8                   requirements - just to throw a figure - say they were 6  
9                   and say with a reserve or whatever they rose to 7, but  
10                  the Ministry, or rather the industry could not foresee  
11                  requirements for the planning period beyond 7-million  
12                  cunits and yet the provincial target is 9.1, would the  
13                  Ministry endeavour to supply more wood than industry  
14                  could be seen to require during that planning period,  
15                  just in order to fulfill what I guess was the  
16                  provincial policy?

17                  And I guess that does not say much for  
18                  the policy in the sense of being realistic, but you  
19                  appear to have a figure here that may be well in excess  
20                  of industry requirements at the moment.

21                  DR. OSBORN: And that's what I was going  
22                  to come to, yes. Industry's requirement at this point  
23                  in time may well not be 9.1. The forest maximum  
24                  allowable depletion, as explained, is calculated to  
25                  determine what the maximum allowable depletion --



1 maximum allowable depletion theoretically is or  
2 actually is, actually.

3 Now, whether industry need some part or  
4 of all that is another question, but the supply  
5 scenario is a function of what the forest actually is  
6 and what we think the forest may produce in longer  
7 periods of time. Now, whether that number is greater  
8 or less than industry requirement at that point in time  
9 is one of those things that happen.

10 And so your hypothesis that it could be 6  
11 today and we are still striving for 9.1, is still a  
12 reality, it could happen, does happen, is happening.  
13 We are still aiming towards the 9.1 at 2020 with the  
14 thought, belief, understanding that that is close to,  
15 in fact, is less than from the predictions industrial  
16 demand by 2020.

17 But at this point in time right today if  
18 you had up the maximum allowable depletions for all the  
19 management units, the number may well exceed the total  
20 requirement today in this planning period.

21 THE CHAIRMAN: Okay.

22 MR. MARTEL: Mr. Castrilli, can you tell  
23 me what page...

24 MR. CASTRILLI: Sorry, I was referring to  
25 page 321, or I was about to refer to page 321, I should

1 say. It is also known as Document 62.

2 Q. On that page, Dr. Osborn, the heading  
3 is Extending the New Forest Harvest and there are a  
4 number of items listed on it and one of them -- a  
5 number of them -- one of them includes: Increase the  
6 size of the artificial regeneration program.

7 That's a scenario that applies -- or  
8 that's an initiative that applies to any of the four  
9 scenarios that you set out in the OWOSFOP for  
10 Production Policy; is that correct?

11 DR. OSBORN: A. I don't think...

12 Q. Sorry, that would not apply to the  
13 natural regeneration one, it would apply to the others;  
14 is that correct?

15 A. If I could let Mr. Gordon speak to  
16 that, I will explain why in a moment.

17 Q. Surely.

18 MR. GORDON: A. We had five scenarios.  
19 Scenario 4 and 5 pertain to intolerant hardwood and in  
20 those two scenarios we assumed that we would have  
21 natural no-cost regeneration. So relative to how you  
22 might interpret this one, increase the size of the  
23 artificial regeneration program, that does not pertain  
24 to those two simulations.

25 The other three simulations, No. 1 where

1 we showed the forest able to meet projected demand and  
2 in No. 3 the same thing happening and No. 2 we showed  
3 that there would be a bit of a crash a number of years  
4 down the road. In all three of those scenarios we  
5 assumed at varying levels there would be an increased  
6 artificial regeneration program.

7 Q. So none of the scenarios, with the  
8 exception -- well, excuse me. Leaving out the  
9 intolerant hardwoods, all of those scenarios assume  
10 some level of increased artificial regeneration  
11 expenditures?

12 DR. OSBORN: A. Increased over today's.

13 Q. Over today's?

14 A. Yes.

15 Q. Correct me if I am wrong, there are  
16 no figures associated with what the increases would be  
17 for those three scenarios; is that correct?

18 A. Increases in...?

19 Q. Expenditures above today's levels?

20 A. No, there was no dollar figures  
21 associated with any of the three scenarios.

22 Q. Do you have any sense of what we  
23 might be talking about in terms of the increases per  
24 scenario with respect to artificial regeneration?

25 A. No, and just be aware that the

1 scenario No. 2 was, yes, an increase in artificial  
2 regeneration under the Forest Production Policy  
3 Implementation Schedule. So that was, if you like,  
4 that which was intended and planned already that we  
5 would increase at that level and then hold constant.

6 But in answer to your question, there are  
7 no cost evaluations going with those at this point in  
8 time.

9 Q. Would it be fair to say, of the items  
10 listed on page 321, the item increase the size of the  
11 artificial regeneration program carries with it  
12 probably the largest price tag?

13 A. Actually not necessarily. I can  
14 hypothesize that some of the others could be as  
15 expensive if not more so.

16 Q. In terms of actual expenditures?

17 A. In terms of real costs to society.

18 Q. Okay. What about in terms of actual  
19 expenditures?

20 A. By the Crown?

21 Q. Yes.

22 A. Item No. 2 could be and on occasions  
23 has been a very expensive item and depending how we did  
24 the tending and thinning, if that was a desired way of  
25 extending the new forest, that also could be an



1 expensive item and Mr. Martel has alluded to that  
2 earlier.

3 So there are more than just one item in  
4 that list that potentially could be expensive.

5 Q. Correct me if I am wrong, the  
6 increased size of the artificial regeneration program,  
7 that includes the road building; does it not, a road  
8 building expenditure?

9 A. You mean in that statement?

10 Q. Yes, or is road building not included  
11 in that?

12 A. No, the road building usually is put  
13 in for the extraction. If you increase the size of the  
14 artificial regeneration program, it might just be that  
15 we are doing more planting and/or seeding and let's  
16 take -- and the seeding, therefore, doesn't matter  
17 because it is done primarily from the air.

18 We are talking of the planting, the  
19 access for planting is typically that from the road  
20 that's been used for access for logging in the first  
21 place.

22 Q. So page 321 does not refer to any  
23 contemplated expansion in road system associated with  
24 extending the new forest; is that correct? It is  
25 not -- in any event, it is not meant to be included in

1       what you describe as increasing the size of the  
2       artificial regeneration program?

3                   A.   Correct.

4                   Q.   Okay, thank you.

5                   MR. CASTRILLI:  Mr. Chairman, I  
6       indicated, I forget which day now, and I think day 2 of  
7       my examination that I wanted to file the third stocking  
8       standards that Mr. Gordon and I had been discussing.

9                   It is known as Appendix 10 of the  
10       Regeneration Survey Manual which is not yet an exhibit  
11       but I have faith will soon be in a subsequent panel.

12                   I ask that be made the next exhibit.

13                   THE CHAIRMAN:  Exhibit 177.

14       ---EXHIBIT NO. 177:  Appendix 10 to Regeneration Survey  
15                               Manual for Ontario, 1981 edition,  
                              Ministry of Natural Resources.

16                   THE CHAIRMAN:  Mr. Castrilli, could you  
17       tell me the proper title of the document from which  
18       this comes again?

19                   MR. CASTRILLI:  I believe it is  
20       entitled -- oh, Mr. Gordon has the title right there.

21                   MR. GORDON:  It is called:  Regeneration  
22       Survey Manual for Ontario, 1981 edition, Ministry of  
23       Natural Resources.

24                   THE CHAIRMAN:  Thank you, Mr. Gordon.

25                   MR. CASTRILLI:  Q.  Mr. Gordon, just very

1 quickly, I want to add this particular exhibit and ask  
2 you to just take out your Exhibits 166 and 167 which  
3 are the stocking standards for 1971 and 1978  
4 respectively.

5 Do you have both of them before you now?

6 MR. GORDON: A. Yes, I do.

7 Q. As you will recall we discussed the  
8 fact that Exhibit 166 and 167 have a verbal description  
9 of what failure meant with respect to each of those  
10 standards.

11 And if we look at Appendix 10, which is  
12 now Exhibit 177, there is, at least on these two pages,  
13 no comparable verbal description. I understand from  
14 your testimony at the time that rating No. 3 might be  
15 comparable to a description -- a verbal description  
16 that is similar to Exhibits 166 and 167.

17 Is that a correct restatement of your  
18 evidence?

19 A. In very simple terms, our rating No.  
20 1 is more or less equivalent to what used to be called  
21 satisfactory in 1978; rating No. 3 would be equivalent  
22 to what was termed failure in 1978; and rating No. 2  
23 obviously falls between failure and satisfactory and  
24 that is, it meets a minimum standard -- a minimum  
25 stocking level.

1 Q. I have spoken with Mr. Freidin about  
2 this. Are the three ratings actually verbally  
3 described in the Regeneration Manual?

4 A. You mean described in writing?

5 Q. Described in writing as we see them  
6 for Exhibit 166 and 167?

7 A. No, they are not.

8 Q. Okay, thank you.

9 Mr. Armson, just one point that I don't  
10 believe I asked you yesterday. You are the author of  
11 the SOARS Report, Document 27; is that correct?

12 MR. ARMSON: A. That is correct.

13 MR. CASTRILLI: Mr. Chairman, those are  
14 my questions.

15 THE CHAIRMAN: Thank you, Mr. Castrilli.  
16 Just about ten minutes' worth.

17 MR. FREIDIN: Mr. Chairman, some people  
18 accused me of making the objection yesterday just so  
19 that Mr. Castrilli couldn't meet his three day  
20 deadline, but that wasn't true.

21 MR. CAMPBELL: It was actually that he  
22 didn't want Mr. Castrilli to go to his tennis game.

23 MR. CASTRILLI: Which I will never  
24 forgive you for.

25 MR. FREIDIN: Mr. Chairman, one matter



1 that is sort of still left with the panel that they are  
2 going to try and deal with before cross-examination  
3 ends is the information in relation to the discussion  
4 with Mr. Cary about the level of regeneration in an  
5 area that he had described in an article in 1973.

6 So I just wanted to advise the parties  
7 that it is still the intention to strive to get that  
8 information before the Board before this panel is  
9 complete so people can have an opportunity to  
10 cross-examine on whatever that evidence is, as opposed  
11 to bringing everybody back.

12 MR. CASTRILLI: Yes. Actually, I should  
13 say my cross-examination was over, subject to the  
14 undertakings. Thank you.

15 THE CHAIRMAN: Very well. Are we going  
16 to proceed now, Mr. Freidin, with Mr. Edwards first?  
17 He advises he is going to be no more than two hours.

18 MR. FREIDIN: Yes. That's my  
19 understanding, Mr. Chairman.

20 Mr. Edwards indicated to us this morning  
21 that one of the documents that he wants to refer to in  
22 cross-examination is a document entitled:  
23 Implementation Strategy, Areas of Natural and  
24 Scientific Interest.

25 This was a document which was one of the

1 documents provided with the evidence of Panel No. 7. I  
2 have only been able to obtain three copies.

3 MR. MANDER: They have them up there.

4 MR. FREIDIN: All right. Maybe there is  
5 no problem then. Mr. Edwards advised me he has copies  
6 of certain pages he wants to refer to.

7 MR. EDWARDS: Mr. Chairman, I apologize  
8 for not having the documentation immediately available.  
9 What I have had done, however, is photocopied the  
10 relevant pages and I was wondering whether my friends  
11 would either prefer to adjourn for five minutes to make  
12 sure they have got their full copies or perhaps we  
13 could proceed with the pages and have the full document  
14 noted as an exhibit and entered when we obtain a copy  
15 for the Board secretary?

16 THE CHAIRMAN: Well, is it going to be a  
17 problem for any of the other parties, do you want the  
18 full document in front of you, which you will have  
19 excerpts to which Mr. Edwards will be referring.

20 I think we can just proceed, Mr. Edwards

21 MR. EDWARDS: Yes. Thank you, Mr.  
22 Chairman. Does the Board have copies, do the Board  
23 members all have copies?

24 THE CHAIRMAN: We have copies of the full  
25 document, yes.

1                   MR. EDWARDS: The name of the document is  
2                   Implementation Strategy, Areas of Natural and  
3                   Scientific Interest.

4                   THE CHAIRMAN: Mr. Edwards, at the  
5                   appropriate time we will probably be entering as an  
6                   exhibit just your excerpts because that's what some of  
7                   the parties just have in front of them, rather than the  
8                   full document at this time.

9                   So do you have anymore copies of just the  
10                  excerpts?

11                  MR. EDWARDS: Yes, I do.

12                  THE CHAIRMAN: Perhaps if we can have a  
13                  couple of them for the record purposes.

14                  MR. EDWARDS: I have two copies.

15                  THE CHAIRMAN: Actually we just need the  
16                  one for the record, sorry.

17                  MR. EDWARDS: I will take a look at my  
18                  watch, Mr. Chairman, try to make sure I don't exceed  
19                  the time which I have allotted to myself.

20                  THE CHAIRMAN: Well, we are not  
21                  constraining you. You will be constrained by yourself.

22                  MR. EDWARDS: That's right, thank you.

23                  CROSS-EXAMINATION BY MR. EDWARDS:

24                  Q. Dr. Armson, I have not had the  
25                  pleasure of hearing all of the testimony for all of the

1 panels, but I do have some specific questions, sir,  
2 which I hope to address to you on three areas, I think  
3 all of which you have touched upon in the evidence  
4 which you have given.

5 The first area is that of road access. I  
6 appreciate that's going to be the subject of a later  
7 panel, but I wish to ask you some questions arising out  
8 of your testimony in a particular area there.

9 The second area is that of the third  
10 party licensees and how they integrate with forest  
11 management agreements. And the third area is to do  
12 with the focus on the unit manager and the district --  
13 or the unit forester and the district manager. And I  
14 think you gave some testimony in those areas as well.

15 Sir, earlier in your testimony - I have it  
16 marked as in the area of page 2839 to 2867 of the  
17 transcript - you talked about the knowledge which the  
18 Ministry has of the expenditures of the forest industry  
19 on regeneration, reforestation.

20 Do you recall that testimony, generally?

21 MR. ARMSON: A. Yes, I do. It related I  
22 believe to forest management agreement holders,  
23 specifically.

24 Q. Right and I believe Mr. Martel had  
25 some questions for you in that area. Do you recall



1 that?

2 A. That is correct, I do recall.

3 Q. Sir, specifically with the issue of  
4 road access and road construction, is it the position  
5 of the Ministry that it does not know what is expended  
6 by the forest industry; that is to say the private  
7 companies, on road construction?

8 A. It does not know the total  
9 expenditures by the industry or by individual FMA  
10 holders on road construction.

11 Q. The concern, as I understand it, is  
12 in how much the MNR spends.

13 A. The Ministry knows exactly what the  
14 expenditures are in payments to the FMA holders or  
15 other companies, but specifically FMA holders in terms  
16 of road -- expenditures for roads.

17 THE CHAIRMAN: Sorry. So you know what  
18 you reimbursed them for under whatever program, but you  
19 do not know what they spend in addition; is that  
20 correct?

21 MR. ARMSON: That is correct, because the  
22 payments made by the Ministry (a) do not cover all  
23 roads and (b) in many instances, the payments for the  
24 roads are for improved roads and the payments that we  
25 make -- the payments may not necessarily cover the full

1 cost.

2 MR. EDWARDS: Q. But in terms of what  
3 percentage of the actual cost of construction of a  
4 given kilometere of road, you don't know what  
5 percentage the Ministry supplies?

6 MR. ARMSON: A. It would be variable  
7 company-by-company and road location by road location.

8 Q. Is the reason that the Ministry  
9 doesn't know that have anything to do with the issue of  
10 confidentiality; is this seen as confidential business  
11 information in the hands of the companies?

12 A. It was never an issue and at the time  
13 of the negotiations, the purpose of the payment was to  
14 provide what has been termed a subsidy in order to  
15 ensure that there were all-weather roads constructed  
16 that could be used, not only for management, but for  
17 other uses.

18 Q. Are payments made in respect of  
19 various categories of roads?

20 A. There are payments made for two  
21 categories of roads; one is termed primary road, which  
22 is an all-weather road that is essentially two lanes  
23 and will carry, I believe - I cannot remember exactly-  
24 but something like 80-ton loads, but it is essentially  
25 a two-lane all-weather gravel road.

1                   And the second type of road is termed  
2                   generally a secondary road which is usually a one-lane  
3                   with provision for passing on it, but an all-weather  
4                   road.

5                   Q.   Yes.   So your evidence is that there  
6                   would be no payment made by the Ministry in respect of  
7                   tertiary roads?

8                   A.   That is correct.

9                   Q.   In your understanding, sir, is there  
10                  anything in law which prevents the Ministry from  
11                  obtaining this information as to the expenditures of  
12                  the forest industry, and I appreciate you are not...  
13                  Cot.

14                  A.   I can't speak to that, Mr. Edwards, I  
15                  really don't know.

16                  Q.   Has any effort been made to request  
17                  this information from the industry?

18                  A.   At least two meetings that I have  
19                  attended and these were some time back and, by time, I  
20                  mean a year or two ago, I suggested it would be in the  
21                  industry's interest to make public the expenditures  
22                  that it made on forest management and that would  
23                  include roads.

24                  Q.   From your understanding of the  
25                  situation, did the industry generally object, or was

1       there any...

2                           A.   I am not aware that they have made  
3       public those numbers.

4                           Q.   Did anybody volunteer the  
5       information?

6                           A.   Not in a public sense, to my  
7       knowledge.  I think there have been aggregate numbers  
8       that, I believe, the Ontario Forest Industry  
9       Association has, from time to time, put out in terms of  
10      the total amounts, kilometres of roads that have been  
11      constructed, and I can't be sure, but they may or may  
12      not have said that that has amounted to some aggregate  
13      amount of expenditures, but I wouldn't be sure of that.

14                          Q.   You are aware, sir, of the argument  
15      and the issue generally that the public ought to have  
16      access to forest roads, forest access roads.  Is that  
17      something you have run across in your experience as the  
18      Chief Forester?

19                          A.   Yes.  In fact, that was one of the  
20      first concerns -- one of the major concerns in 1978  
21      when I was involved in the discussions that led to the  
22      forest management agreements.

23                          And, in fact, each of the agreements  
24      carries with it that declaration that the roads shall  
25      be available for public use, subject to the conditions



1 of the Public Lands Act and certainly subject to the  
2 decisions made by the Ministry's district manager in  
3 each location.

4 Q. And in your role as Chief Forester  
5 you would be aware of the discussion and arguments  
6 pro and con that led to the implementation of that, or  
7 the insertion of that type of clause in the forest  
8 management agreements?

9 A. There were basically no major  
10 arguments by the industry. At the time, in 1978, there  
11 were very few private roads; that is, the roads  
12 constructed by the industry, totally separate from  
13 Ministry funding at that time, they were not open,  
14 there were few, but there were very few in 1978.

15 Some years prior to that there had been  
16 private roads that were closed, correct, but it was not  
17 a matter of issue in the discussions.

18 Q. One of the primary arguments in  
19 favour of unrestricted public access is that public  
20 funds have been expended on these roads; is that  
21 correct?

22 A. Oh yes, I am aware of that.

23 Q. Okay. And your evidence is that on  
24 tertiary roads not one penny of public funds are  
25 expended?

1                   A. There are no payments under the  
2 forest management agreement for the construction of  
3 tertiary roads.

4                   Q. You will agree with me, sir, that  
5 construction of primary, secondary or tertiary roads  
6 can have negative impacts upon the forest, the  
7 environment, specifically rivers, lakes and streams?

8                   A. There may be negative or they may be  
9 positive.

10                  Q. Well, if they are not done correctly  
11 they can be negative?

12                  A. That is correct, they should be done  
13 properly.

14                  Q. All right. And that would involve  
15 taking steps to avoid undue silting of spawning sites,  
16 for example?

17                  A. Yes.

18                  Q. Even the crossing of a relatively  
19 small stream can create some damage to a fish stock?

20                  A. It may or it may not.

21                  Q. I assume, sir, that you are not an  
22 expert in the field of construction of culverts,  
23 bridges and crossings?

24                  A. I am not and there are guidelines I  
25 believe, Mr. Edwards, that have been prepared by

1 Ministry in consultation with the industry and, indeed,  
2 appropriate professional expertise has been involved in  
3 the preparation of that document.

4 I am not competent to speak to it.

5 Q. And I appreciate that that would be  
6 the subject of later panels but, sir, generally  
7 speaking, you are aware of some of the principles  
8 involved in stream crossings?

9 A. In very general lay terms, yes.

10 Q. Sir, I am going to put to you a  
11 hypothetical as to the manner of constructing a stream  
12 crossing and I would ask you whether you would approve  
13 for disapprove of this type of practice.

14 I wanted to read something briefly to you  
15 and I want to ask you, from your knowledge of the  
16 principles of construction of roads - and I appreciate  
17 that you are not the expert in that field, but you are  
18 the Chief Forester - I am going to ask you to comment  
19 as to whether this would be appropriate or  
20 inappropriate.

21 The statement is somewhat in the  
22 vernacular. It reads as follows:

23 "If there is a stream that's three,  
24 four feet wide, you have got a number of  
25 ways that you can build a bridge across

1 it; you can order a \$3000 culvert from  
2 town that is four feet in diameter and  
3 sixty feet long and put it in place. But  
4 it takes a float to bring it out and  
5 a truck with 60 feet in the back of it  
6 and then it takes a backhoe to put it in  
7 place and, you know, the whole cost  
8 for crossing two or three feet of creek  
9 is horrendous; or you can make a deal  
10 with your contractor who is right there,  
11 'listen skid in two trunks and which are  
12 about this big sometimes and nail the  
13 branches across and then put some brush  
14 over top of it and the water will fall  
15 through quite nicely, and you may say,  
16 'Will you do that for \$100?' The guy  
17 might say, 'Gee, that's a pretty good  
18 deal but I better look after this guy, he  
19 is my boss,' argue for a little while,  
20 'I'll do it for a hundred and a quarter.'  
21 That's all, they shake hands. The guy  
22 writes up the cheque and it's done.  
23 Saving: \$3000.. Decision: Made by the  
24 area manager. That's the way to do  
25 business, doing business, instead of



1 following policy and procedure. You make  
2 it up as you go along and does it for the  
3 right cost."

4 Now, sir, if that was a description of  
5 crossing a stream would that description create any  
6 difficulty for the MNR supervising it?

7 A. Well, really, even though it is  
8 hypothetical, first of all, I don't really feel  
9 competent to make comments on how you should cross a  
10 stream and how it should be done, Mr. Chairman.

11 I can give a sense - it seems to me there  
12 is a lot of questions that should be asked concerning  
13 that particular example.

14 Q. Sir, could I ask you one. Could I  
15 ask you one question. Is it important, in terms of  
16 preventing siltation and other damage to a stream, in  
17 your level of understanding, is it important to use a  
18 culvert?

19 A. I would think in that situation, just  
20 generally, but I really can't attest to it without  
21 knowing the exact -- and I am not competent to decide  
22 whether a culvert or some other kind of construction  
23 may be even other than the two that have been described  
24 in that example, really...

25 THE CHAIRMAN: Mr. Edwards, do you mind

1 turning your microphone up a little bit so that you are  
2 speaking into it.

3 MR. EDWARDS: Is that better, Mr.  
4 Chairman?

5 THE CHAIRMAN: No. Perhaps you could  
6 speak a little loud border.

7 MR. TUER: Is it on?

8 THE CHAIRMAN: Maybe it is not working.

9 MR. EDWARDS: Maybe it is not on. I have  
10 never been accused of speaking too softly before, Mr.  
11 Chairman. Is that better?

12 THE CHAIRMAN: Yes. Thank you.

13 MR. EDWARDS: Q. Dr. Armson...

14 A. I am sorry, it is Mr. Armson not  
15 Doctor.

16 Q. All right. Well, I apologize for  
17 promoting you.

18 A. It has been done before.

19 Q. All right. Mr. Chief Forester. Sir,  
20 that description of cost cutting, I will advise you is  
21 a statement made under oath by a professional forester  
22 who is in the employ of a forest products company which  
23 has cut millions of dollars worth of forest products  
24 for the people of Ontario over the past number of  
25 years.

1                   If that were any sort of pattern, that is  
2           to say, that attitude towards policy and procedure,  
3           would that upset you?

4                   A. I would expect that the prevailing  
5           procedures and guidelines or manuals would apply to any  
6           situation and if they are not being observed, we have  
7           guidelines that are -- we consider our staff must read  
8           and observe the guidelines, and it would appear that in  
9           that instance they haven't been followed.

10                   If it was -- you say it was an actual  
11           example and not a hypothetical one. I am surprised, I  
12           thought it was hypothetical.

13                   Q. Sir, why is road constructin, that is  
14           to say, primary and secondary and tertiary road  
15           construction seen as a target in timber management  
16           planning?

17                   A. It is not a target. The development  
18           of access is a necessity if in fact the forest is to be  
19           managed.

20                   Q. Well, sir, would you agree with me at  
21           the back of the tables on the FMA five-year reviews,  
22           one looks at whether the company has cut as much as was  
23           forecast, and certainly the review examines whether the  
24           roads have been -- as many roads have been constructed  
25           as forecast. Would you agree it is seen as some sort

1 of target to achieve?

2 A. There is a five-year plan which is  
3 subject to approval by the Ministry in which the  
4 agreement holder lays out its proposed activities which  
5 would include access over that period.

6 The locations are indicated, the type and  
7 nature of the road; primary, secondary are located. I  
8 don't believe in the five-year that the tertiary roads  
9 themselves are identified as such because I think at  
10 that time it is virtually impossible.

11 But then in the review, what was done in  
12 relation to what was planned is what the review, as you  
13 have indicated, tabulates.

14 I am not quite sure when you use the word  
15 target, I suppose if you say, you are planning to do a  
16 certain amount of activity, in this case build a  
17 certain number of kilometres of primary road and you  
18 build less than that, I suppose it might be viewed as  
19 not achieving a target but I think more usually it  
20 reflects the change in the level of harvesting that has  
21 gone on.

22 It doesn't mean that those roads won't  
23 eventually be constructed, but they may not have been  
24 constructed during that period.

25 Q. So in no way should industry be



1 criticized if it gets the job done with fewer  
2 kilometres?

3 A. I don't think it is a matter of  
4 criticism, it is a matter of a plan that has been  
5 approved with -- and whether or not the level or amount  
6 has been achieved may be subject to any number of --  
7 any number of reasons.

8 Q. Sir, on the issue of licensing, you  
9 have given some testimony relating to the forest  
10 management agreements and the imposition of conditions.

11 Now, I am interested in asking questions  
12 about third party licences. Are there at present third  
13 party licences granted on FMA areas?

14 A. Yes.

15 Q. Do those licences contain conditions  
16 which the third party licensee must satisfy?

17 A. Yes, there are conditions relating to  
18 whether the third party undertakes or does not  
19 undertake silvicultural activities. I believe -- is  
20 that the condition you were referring to?

21 Q. Yes. I am specifically interested in  
22 the issue of silvicultural activities including  
23 construction and maintenance and, indeed, closing of  
24 forest access roads.

25 A. There is, I haven't looked at recent

1       agreements, but I believe it would be in the early  
2       1980s there was a condition - I was involved in  
3       development of that condition at that time - I believe,  
4       for the Board's information, it dealt with the  
5       condition that where a third party on a forest  
6       management agreement holder's area undertook to carry  
7       out the silvicultural activities according to the  
8       ground rules, then the road construction that would be  
9       necessary for the third party to undertake would be  
10      subject to the same set of payments, of course subject  
11      to approval in terms of the road, as if the forest  
12      management agreement holder themselves had undertaken  
13      it. I believe that is the condition you were.

14                   THE CHAIRMAN: Would these be direct  
15      payments right to the third party holder?

16                   MR. ARMSON: No, these are to the forest  
17      management agreement holder and there is a passthrough  
18      condition there.

19                   MR. EDWARDS: Q. Do you know, sir, what  
20      percentage of FMA areas are licensed out by way of  
21      third party licence?

22                   MR. ARMSON: A. No, I couldn't tell you  
23      that, Mr. Edwards, I don't know.

24                   Q. Can anybody -- would that information  
25      be obtainable?

1                   A. I believe it could be obtained, yes.

2                   MR. FREIDIN: I think that particular  
3 matter may be a subject matter dealt with in the long  
4 undertaking that Mr. Castrilli and I worked out some  
5 weeks ago about the amount of area on an FMA that may  
6 be the subject matter of third party licences.

7                   MR. CASTRILLI: Mr. Chairman, as I recall  
8 that undertaking, it dealt with declared surplus by  
9 area and estimated surplus by volume and I believe Mr.  
10 Freidin could confirm that.

11                  MR. FREIDIN: Well, perhaps I shouldn't  
12 really have stood up. I was just trying to be helpful  
13 and I think the evidence -- so maybe I'll just let Mr.  
14 Edwards proceed.

15                  THE CHAIRMAN: Mr. Armson, you are saying  
16 that this information is or can be available and, Mr.  
17 Edwards, were you following that up with a request to  
18 the Board or were you...

19                  MR. EDWARDS: Well, I would put that  
20 request to Mr. Armson, yes.

21                  MR. ARMSON: I will endeavor to see -- I  
22 believe that information can be available. I am not  
23 sure how readily available it is, sir. The staff will  
24 have to go to the records in the Timber Sales and  
25 Licensing Branch.

1 THE CHAIRMAN: Well, will you undertake  
2 to make inquiries and if it is relatively available,  
3 make it available?

4 MR. ARMSON: I certainly will, sir.

5 MRS. KOVEN: Could you repeat the  
6 question, Mr. Edwards?

7 MR. EDWARDS: I believe the question was:  
8 What percentage of lands under the FMAs are licensed  
9 directly to third party licensees.

10 Q. Did you understand that to be the  
11 question, Mr. Armson?

12 MR. ARMSON: A. Yes, that was my  
13 understanding of the question. And as of this year, is  
14 that, Mr. Edwards, as of now?

15 Q. Yes, thank you.

16 Sir, is the bandying about or the passing  
17 on of cutting rights by third party licensees a problem  
18 in the management of an FMA or FMU?

19 A. I am not quite sure what you mean by  
20 the bandying about, it is a term I am not familiar with  
21 in relation...

22 Q. Well, sir, are you familiar with the  
23 following quotation:

24 " An assignment, pledge or charge of a  
25 licence or permission to cut on a



1 licensed area shall not have any force or  
2 validity unless the Minister has  
3 consented thereto in writing."

4 Does that ring a bell with you?

5 A. It rings a bell, yes.

6 Q. Yes, it is on bottom of every third  
7 party licence?

8 A. It is.

9 Q. It is also Section 18, sub (2) of the  
10 Crown Timber Act?

11 A. Yes, right.

12 Q. In your experience, sir, is the  
13 passing on of cutting rights without obtaining the  
14 consent of the Minister in writing a problem?

15 A. Not to my knowledge, but I would also  
16 say, Mr. Edwards, that I am not directly involved in  
17 the matter of licensing and cutting rights.

18 Q. Does the MNR have difficulty in  
19 controlling the conduct of certain third party  
20 licensees who have less commitment to the FMA area than  
21 perhaps the primary licence holder?

22 A. Honestly, I cannot speak to that, Mr.  
23 Edwards, I do not know.

24 Q. You don't know. During your  
25 evidence-in-chief, Mr. Armson, you talked about the

1 obligations of the FMA party and I believe the Chairman  
2 asked you some questions about the issue of whether the  
3 FMA holder were to get in financial difficulty or to  
4 not live up to its obligations."

5 Do you recall generally that type of  
6 discussion?

7 A. Very generally, yes, I do.

8 Q. I see. What controls, if any, are in  
9 place to ensure that third party operators who go  
10 bankrupt are somehow subject to some sanction? Are  
11 they only in the licence, are they anywhere else?

12 A. In terms of the activities undertaken  
13 on a forest management agreement area, whether by the  
14 agreement holder or whether by a third party operating  
15 on a third party license and carrying out silvicultural  
16 or access activities, the agreement -- the agreement is  
17 with the agreement holder, it is between the agreement  
18 holder and the Minister and...

19 THE CHAIRMAN: So are you saying, in  
20 effect, that the agreement holder, the FMA agreement  
21 holder in effect acts like a guarantor of the  
22 activities or responsibilities to be exercised by the  
23 licence holder?

24 MR. ARMSON: Yes, without...

25 THE CHAIRMAN: Without the formal legal

1 connotations of a guarantor?

2 MR. ARMSON: That's right, yes, it is the  
3 agreement holder. This was one of the key points - and  
4 if I might, in a sense, come to Mr. Edwards' question  
5 here too - that the question arose when in fact we were  
6 considering early on the matter of third party  
7 licensees and I would point out to the Board that third  
8 party licences existed on many of these areas prior to  
9 them becoming forest management agreement areas, but  
10 the question I believe - and this is the one that I  
11 think relates to Mr. Edwards' expression - was whether  
12 or not the carrying out of the silvicultural and other  
13 activities, the Crown should deal directly with the  
14 third party or with the agreement holder and, following  
15 considerable discussion it was decided and, in my view,  
16 quite properly that the contract can only be between  
17 the two parties, the agreement holder on the one hand  
18 and the Minister on the other.

19 MR. EDWARDS: Q. Does that mean that  
20 conditions which would directly impact upon the third  
21 party licensee could not be imposed in a licence?

22 MR. ARMSON: A. The conditions imposed  
23 upon the third party licensee. Well, there may be a  
24 variety of conditions that are independent of it being  
25 the activities taking place in a forest management

1 agreement area. So I would set those aside.

2 I take it you are referring only to those  
3 conditions that apply to the fact that it is being  
4 undertaken, the activities are being undertaken by a  
5 third party on the forest management agreement area.  
6 Is that what I understand? Am I correct?

7 Q. Yes.

8 A. The only condition I am aware is that  
9 the third party will follow out into the activities,  
10 that comply with the conditions as set forth in the  
11 ground rules that are a part of the contract and of the  
12 agreement.

13 Q. Is it your evidence that the same  
14 principles would apply to Crown management units?

15 A. No. The agreement is only for forest  
16 management agreement areas. On Crown units there may  
17 be a variety of conditions that would apply to third  
18 party licensees and these would be specified.

19 Q. Can the same -- are the conditions  
20 which would be imposed on third party licensees on a  
21 Crown management unit different from those which might  
22 be imposed on a third party licensee on a forest  
23 management agreement?

24 A. They may be different.

25 Q. Is there any reason that they have to



1 be?

2 A. Well, it would depend on the  
3 situation and the conditions. Really the conditions, I  
4 would presume, not speaking in any detail, on a third  
5 party licensee would relate to the area, whether it be  
6 a Crown and the nature and type of activity that was  
7 being undertaken.

8 Q. Sir, is there any reason...

9 MR. EDWARDS: Just one moment, please.

10 Q. On Crown management units are the  
11 payments in respect of road construction, for example,  
12 paid directly then to the third party licensee?

13 MR. ARMSON: A. I can't speak to that.  
14 I am not familiar with the conditions that may apply or  
15 may not apply on Crown units. I would presume they  
16 would vary.

17 Q. Ought it to be the Ministry's concern  
18 if the third part licensees are failing to live up to  
19 their obligations, in a business sense? Do you see any  
20 concern about renewal of a licence if there is a  
21 business related problem for a third part licensee?

22 A. Well, as I have indicated, I do not  
23 normally, in fact I do not deal with timber licensing  
24 and the administration of that side, so I can't speak  
25 to it.

1 THE CHAIRMAN: Mr. Freidin, is this topic  
2 going to be addressed in any detail in a future panel,  
3 timber licensing agreements or licences in general?

4 MR. FREIDIN: It wasn't expected that  
5 there would be any detailed description of that  
6 licensing. The material in the Environmental  
7 Assessment Document which does, just in a brief way,  
8 describe the various types of licences, and the reason  
9 basically that there wasn't an intention to be going  
10 into it in any detail was that the Ministry's position  
11 was that these plans have to be implemented -- or  
12 perhaps have to be implemented in accordance to the  
13 plan regardless of who the licensee is, regardless of  
14 who actually engaged in the activity.

15 There will a panel that will deal with  
16 monitoring, Panel 16, which will have forest type --  
17 how provisions of the Crown Timber Act are enforced.

18 THE CHAIRMAN: Will there be anybody that  
19 you intend to call as a witness, as a member of any  
20 future panels that is knowledgeable in the area of  
21 timber licensing, even though you may not specifically  
22 be dealing with the topic?

23 MR. FREIDIN: I don't think so.

24 THE CHAIRMAN: Mr. Edwards, this is your  
25 best shot I guess.

1 MR. EDWARDS: All right. Thank you, Mr.  
2 Chairman.

3 Q. Sir, in licences granted to third  
4 party licensees on Crown management units, is there any  
5 other vehicle other than the licence itself which can  
6 impose some conditions upon that operator, the third  
7 party licensee?

8 MR. ARMSON: A. Well, as has been  
9 indicated, the timber management plan for that area  
10 which is drawn up and goes through an approval process,  
11 but is drawn up by the unit forester, will have  
12 silvicultural guide -- ground rules there and these  
13 presumably - not presumably - they will apply.

14 Q. Would you agree with me, sir, that  
15 the detail of the legal obligations imposed upon a  
16 third party licensee in the timber licence is much  
17 sketchier than that imposed on an FMA holder.

18 A. No, I wouldn't agree because I am  
19 not, as I said, I am not directly familiar with the --  
20 I know the terms and conditions, if you like, in  
21 general for the FMA holder, the third parties, but I am  
22 not familiar with the details of the third party  
23 licences throughout the province, by any means.

24 THE CHAIRMAN: Mr. Edwards, the Board  
25 does not want to preclude your question in this area,

1 but I am not sure it is proving to be all that fruitful  
2 in view of the fact that this--

3 MR. EDWARDS: I am not sure that it is,  
4 Mr. Chairman.

5 MR. ARMSON: --is indicating that he  
6 really does not know about this area and is reluctant  
7 to express any real opinions on the area.

8 MR. EDWARDS: Well, I will ask him  
9 something that he claims to know something about.

10 Q. Sir, you wrote the report on the unit  
11 forester; did you?

12 A. Yes, I did.

13 Q. And their career development that is  
14 filed as Exhibit 77?

15 A. Yes. May I just get a copy. I think  
16 I have it in my bag.

17 Q. Yes, please do.

18 A. Yes, I have that.

19 MR. EDWARDS: Does the Board have that?

20 MRS. KOVEN: Which exhibit, Mr. Edwards?

21 MR. EDWARDS: It is Exhibit 77, the  
22 Report on the Unit Foresters. I advised Mr. Mander  
23 this morning that I would be referring to that one.

24 MRS. KOVEN: Yes.

25 MR. EDWARDS: Q. Do you have your copy



1 now, sir?

2 MR. ARMSON: A. Yes, I do.

3 Q. Sir, is it the theory of the Ministry  
4 that the unit forester and the district manager are key  
5 players in the management of Ontario's forest  
6 resources?

7 A. It is more than a theory.

8 Q. That is the reality?

9 A. Yes.

10 Q. One of the responsibilities of the  
11 unit -- the person in the unit could be to designate  
12 areas as reserves. Whose responsibility is that?

13 A. The designation -- there is in the  
14 timber management planning process, the district  
15 manager is the chairman or he may delegate that  
16 particular responsibility, but he is the chairman of a  
17 district planning team and the district planning team  
18 is involved in various aspects during the preparation  
19 of a timber management plan and that, I believe, will  
20 be duly dealt with in a later panel.

21 Q. Sir, when that decision about the  
22 implementation of a reserve is being made, is it fair  
23 to say that the person who is making that decision  
24 would have to refer to things like the land use  
25 guidelines for the district?

1 A. Very much so, yes.

2 Q. All right. And the document on the  
3 areas of natural and scientific interest, perhaps?

4 A. Yes, they would base their  
5 considerations on all available information that was  
6 pertinent.

7 Q. The Timber Management Planning Manual  
8 addresses that issue, briefly at least?

9 A. The issue of -- I am not quite sure  
10 what you mean by the issue.

11 Q. The issue of creation of a reserve  
12 where forestry is not permitted?

13 A. It provides for the identification  
14 and, yes, quantification of the amount of area in  
15 reserve, yes.

16 Q. Sir, would you agree with me that at  
17 page 13 of the Timber Management Planning Manual which  
18 is filed as Exhibit 7, there are a number of paragraphs  
19 which relate to the creation of designation of a  
20 reserve. And I draw your attention to the blue pages  
21 at the front of the manual which appear to modify the  
22 pre-printed form somewhat?

23 A. This is page 13. Could you point out  
24 out for me, the specific...

25 Q. Sir, there is actually one paragraph

1 which deals with the issue of no timber management  
2 operations, that is an ultimate paragraph commencing  
3 with the word finally on page 13.

4 "Finally, if operations cannot take place  
5 even in a modified manner while  
6 protecting other resource values, the  
7 area must allocated as a reserve in which  
8 no timber management operations will be  
9 permitted."

10 Do you have that, sir?

11 A. Yes, I have that, I read that.

12 Q. And I believe that that one-sentence  
13 paragraph is also the same on page 13 as modified in  
14 the blue pages. Do you have that?

15 A. Well, it is certainly on the page I  
16 have.

17 Q. All right. Sir, we have had some  
18 examination of the district land use guidelines for the  
19 Wawa District in previous testimony, and without going  
20 through those at any great length again, are you  
21 familiar with the fact that forestry is a permitted  
22 use -- timber management is a permitted use on  
23 essentially every part of the Wawa District with the  
24 exception of Michipicoten Island and areas where trees  
25 don't grow?

1                   A. I am not familiar with the Wawa plans  
2 or documents, so I cannot speak to that.

3                   THE CHAIRMAN: Can anybody on this panel  
4 speak to that?

5                   MR. CARY: No, I cannot.

6                   MR. GORDON: No.

7                   DR. OSBORN: No, sir.

8                   MR. EDWARDS: Q. Sir, when the unit  
9 forester is looking for his guidelines as to how to  
10 create a -- or whether to create a reserve, what are  
11 the appropriate circumstances, might he also turn to  
12 the Report on Unit Foresters and Their Career  
13 Development?

14                   I would hope that you would think that  
15 they would turn to that one once in a while.

16                   MR. ARMSON: A. Whether they would turn  
17 to that with respect to a decision on reserves, I  
18 wouldn't know. I am looking for the link, Mr. Edwards.

19                   Q. Well, I will read it to you right  
20 now. At page 4 of that document you wrote, sir -- at  
21 the bottom, second last sentence, penultimate sentence  
22 page 4 of the document which is Exhibit 77:

23                   "It is clear then that in the development  
24 of a timber management plan the setting  
25 of objectives for non-timber resources



1 and values is the responsibility of  
2 others; that is to say, other than the  
3 unit forester. Equally it is the  
4 responsibility of the forester to  
5 determine the nature, extent and  
6 implications of any timber management  
7 required to meet non-timber resource  
8 objectives or values and to make these  
9 known to the owner, district manager, or  
10 chairman of the management planning  
11 team."

12 So your direction to the unit forester,  
13 at least, is that the consideration of non-timber  
14 values is the responsibility of others?

15 A. That is correct. The forester may  
16 have some knowledge which may aid them, but he is not  
17 professionally qualified to deal with the other  
18 resources in the same way that he is with timber.

19 Q. Sir, the point I am getting at is:  
20 There is one paragraph, it would seem, on page 13 of  
21 the Timber Management Planning Manual about when one  
22 ought to set up a reserve. The definition of the job  
23 of the unit forester says that the responsibility  
24 belongs to somebody else.

25 The District Land Use Guidelines

1 certainly permit forestry even in areas which are  
2 designated as tourism reserves, I suggest that to you.  
3 And I am just going to finally draw your attention to  
4 one fourth document which -- the area of natural and  
5 scientific documentation implementation strategy  
6 which -- relevant pages of which have been given to the  
7 Board and counsel this morning.

8 And, sir, do you have a copy of that?

9 A. Yes, I do, Mr. Edwards.

10 Q. I see. And would you agree with me,  
11 sir, at Figure 5 and 6, pages 16 and 17?

12 A. Yes, I see Figures 5 and 6.

13 Q. Yes. That in an area designated as  
14 an area of natural and scientific interest tourism is -  
15 just so people can understand, the "N" stands for no,  
16 the "Y" stands for yes and the "M" stands for maybe -  
17 as a permitted use, tourism is not permitted in the  
18 core zone, the strictly protected part, the managed  
19 part, the buffer zone, the management zone and maybe in  
20 the access zone.

21 Would you agree with that, sir?

22 A. That is what is indicated in those  
23 two figures.

24 Q. All right. Whereas forestry and  
25 its various fashions, selective logging is permitted as

1 a maybe in the managed area of the core zone, maybe in  
2 the buffer zone, yes in the resource management zone,  
3 and maybe in the access zone?

4 A. I see that in the table, yes.

5 Q. You see that as well. Well, sir, if  
6 a person -- if a unit forester or a district manager  
7 was looking to these documents for guidelines as to  
8 when a reserve might be appropriate, sir, how is he  
9 going to -- do you consider those sufficient for him to  
10 make a reasonable decision, those are the directions  
11 with respect to what is permitted and what is not, or  
12 are there any others?

13 A. I am not quite sure. They are the  
14 guidelines in that document. They would, therefore, be  
15 duly considered by the district manager and his staff,  
16 including the unit forester.

17 I am not quite clear, in view of the  
18 reference to what was written in the unit forester  
19 document. They are the guidelines and they exist.

20 Q. Yes, sir. But the guidelines, you  
21 will agree with me, allow forestry, timber management  
22 in areas which are even designated as tourism reserves?

23 A. Yes, that's correct.

24 Q. Allow them in areas of natural and  
25 scientific interest?

1 A. I see that, yes.

2 Q. And how, sir, then would a unit  
3 forester or a district manager come to a conclusion  
4 based on the one paragraph which we have seen on page  
5 13?

6 MR. GORDON: A. If I could be helpful,  
7 Mr. Armson. Obviously what would be happen at the  
8 field level is the unit forester and the district  
9 manager would be very aware of the specific reason for  
10 that ANSI and, therefore, recognizing that specific  
11 reason for that specific ANSI, they would decide  
12 whether or not there would be harvesting, et cetera,  
13 that would be allowed to take place.

14 Likewise, when you look at the Wawa  
15 District Guidelines and, for example, I was involved in  
16 the Terrace Bay District Guideline preparation. We do  
17 have maps that show that forestry can take place in  
18 general terms basically across the district. That does  
19 not mean that that is going to happen. We go through a  
20 management planning process to identify specifically  
21 where it can take place within those areas and, as  
22 well, where it cannot take place. We identify areas of  
23 concerns, we identify reserves.

24 So I think the conclusions that you are  
25 coming to are perhaps incorrect.



1 Q. Are there any other guidelines to  
2 give the unit forester or the district management some  
3 instruction as to how to locate a reserve?

4 MR. ARMSON: A. There are tourism  
5 guidelines.

6 Q. Those will be the subject of--

7 A. That is correct.

8 Q. --of another panel.

9 THE CHAIRMAN: Mr. Edwards, just to get  
10 some housekeeping taken care of. I do not think we  
11 formally admitted the excerpts as an exhibit which were  
12 Table 5 and 6 of the Implementation Strategy. So I  
13 think those should be exhibited as No. 178. And then  
14 at some future time the whole document itself might be  
15 put in.

16 Mr. Freidin, I am just suggesting that  
17 the two pages go in as a separate exhibit at this time  
18 because that is the only material that some of parties  
19 have in front of them.

20 MR. FREIDIN: I just want to indicate to  
21 Mr. Edwards that the particular subject matter that he  
22 is discussing now, in particular the discussions of  
23 areas of natural and scientific interest and what they  
24 are and how they make come into play in timber  
25 management, will be the subject matter of a number of

1 panels. And particularly Panel No. 7 is going to  
2 introduce the entire document and explain what it is.

3 There will be foresters on that panel who  
4 can perhaps deal with questions of the type being asked  
5 now at that time. As well, there will be, of course,  
6 considerable evidence in terms of these areas of  
7 concern process which Mr. Gordon referred to and,  
8 again, how information is looked at and how it is  
9 assessed in order to come to a decision as to whether  
10 there will or will not be operations, or if there are  
11 operations, whether they will be modified.

12 MR. EDWARDS: Q. Sir, one of the  
13 criticisms I think of this process has been that it may  
14 just result in the creation of a much thicker book of  
15 rules, but without wishing to add to that thick book,  
16 it is your view that paragraph -- the second last  
17 paragraph on page 13 gives sufficient direction to  
18 people at the district or unit level as to what to do  
19 in the -- when to create a reserve -- when other  
20 resource values may be sufficiently important that no  
21 timber management should be allowed?

22 MR. ARMSON: A. Well, this is not the  
23 only direction. As already pointed out, there are  
24 District Land Use Guidelines, there are an array of  
25 other pieces of information that will be taken into

1 account and I just would reiterate that that is not the  
2 only direction.

3 Q. If I might just ask a question of --  
4 I have got to get this right - Dr. or Mr. Osborn.  
5 Witness Osborn.

6 Sir, I recall one bit of your testimony  
7 as being to the effect that with the great leap forward  
8 in technology one is now able to produce more wood  
9 fiber on -- more wood fiber more quickly on a given  
10 area. Is that a fair synopsis of some of your  
11 testimony?

12 DR. OSBORNE: A. It has spent the last  
13 thousand years striving of silviculture to so do, yes.

14 Q. Yes. And that was a fair statement?

15 A. I am not sure about the great leap  
16 forward of technology.

17 Q. I see. Well, I will withdraw that  
18 then. Is it then true also, sir, that it is possible  
19 to produce the same level on a lesser area; same level  
20 of wood fiber on a smaller land base?

21 A. It is possible.

22 Q. So -- or is it your evidence that the  
23 forest industry in Ontario is operating so close to the  
24 edge that it would be impossible to withdraw certain  
25 areas from timber management?

1                   A. I haven't inferred one way or the  
2 other on that score. And if you really want to analyse  
3 it, it would be done at the management unit level,  
4 management plan-by-management land as to the area that  
5 was available for timber operations, the area that was  
6 not available for timber operations, the amount of  
7 supply that could come from that area available for  
8 timber operations.

9                   So that sort of decision, analysis is  
10 performed at the management unit level, management  
11 plan-by-management.

12                  Q. And the people making those decisions  
13 would be looking to the Land Use Guidelines and the  
14 ANSI Document for the direction as to the policy, and  
15 the Timber Management Planning Manual?

16                  A. Yes, and many others that will be  
17 spoken in sundry panels that follow.

18                  Q. Sir, for example, in an area that was  
19 outside of a provincial park was identified as an area  
20 with shallow or bare soils, thin soils, rocky or  
21 swampy, who makes the decision that that type of area -  
22 perhaps a buffer around a provincial park, an area  
23 where tourism is an existing industry - who makes the  
24 decision that that type of area might be withdrawn and  
25 placed in a reserve?



1                   A. I wasn't sworn as an expert in this  
2           matter. Panel 15 will deal with this subject, but the  
3           planning team for the timber management plan is the  
4           answer to the question.

5                   MR. EDWARDS: If I might have a minute,  
6           Mr. Chairman.

7                   MR. MARTEL: If it were a park, Dr.  
8           Osborn, and it was considered to do so, would a final  
9           approval have to come from the Ministry itself?

10                   In other words, let's say a group, a  
11           management team decided that a reserve in fact is not  
12           really harvestable and they decided they want to put  
13           that as a park reserve, for example, final approval  
14           would come from Toronto; would it?

15                   DR. OSBORN: Here I do hesitate, sir,  
16           because this is definitely stepping outside of what I  
17           do know.

18                   As far as I understand, the timber  
19           management plan would be approved by the district  
20           manager and that is subject, if I understand correctly,  
21           to approval of higher levels.

22                   My knowledge doesn't go far enough to  
23           know at what level that stops and gets approved. I  
24           believe that sort of thing is very, very much the  
25           subject of Panel 15 when we talk about at a management

1 unit level, what is happening.

2 MR. EDWARDS: Q. If I might go back to  
3 Mr. Armson for a moment, please. Sir, is it your view  
4 as the Chief Forester that the rules that apply to FM  
5 forest management units ought to be the same for all  
6 persons who -- for all units?

7 MR. ARMSON: A. The process applies to  
8 all Crown lands and forest management agreement areas  
9 are on those -- all the units are on Crown land.

10 Q. I see. Is it your view that the same  
11 set of rules would be appropriate for smaller units,  
12 community-based units?

13 A. If they are on Crown lands, the  
14 process applies to all Crown lands, no matter what the  
15 disposition is of management on those lands.

16 Q. So the rules which might apply to a  
17 smaller area unit centered on a native community, would  
18 be the same as the ones which would apply to Abitibi  
19 Price or Great Lakes?

20 A. The process that we have applies to  
21 Crown lands and the disposition within the management  
22 units on those areas is the same, quote "it is the same  
23 process".

24 Q. I see. Well, is it your view that  
25 that is appropriate and correct?

1 A. Yes.

2 Q. Thank you.

3 THE CHAIRMAN: But that does not  
4 necessarily apply to a native reserve; does it?

5 MR. ARMSON: No, that's correct.

6 THE CHAIRMAN: That is no Crown land?

7 MR. ARMSON: That's right. That is  
8 correct.

9 MR. EDWARDS: Q. Well, certainly the  
10 native reserve is not a Crown land, but the smaller  
11 forest management units located adjacent to or near a  
12 native reserve, it would be your view that those -- it  
13 would be subject to exactly the same rules, procedures  
14 and regulations as a much larger unit?

15 MR. ARMSON: A. Yes. Maybe I should  
16 emphasize. The process and procedures and all the  
17 various considerations apply, in my understanding, and  
18 it is my belief they should apply to all areas.

19 Q. Sir, is it your view that the unit  
20 level forester and district managers have a good record  
21 of cooperation with the industry?

22 A. I believe I would say yes. Obviously  
23 there are instances where for one reason or another, or  
24 may there may be instances of time where there may be  
25 somewhat of a discord, but it is my experience that

1 district managers and unit foresters deal with industry  
2 staff and the relationships are mutually constructive.  
3 If they weren't, it wouldn't be very successful in  
4 terms of management.

5 Q. Does the Ministry keep any records of  
6 the number of former Ministry employees who are now  
7 employed by the companies which they regulate?

8 A. I don't know of any formal records.  
9 Once a civil servant leaves the Ministry, I don't know  
10 that there is a tracking of where they go over the  
11 period of time.

12 MR. FREIDIN: There was an indication  
13 yesterday or the day before that an inquiry was to be  
14 made along the lines to see whether that sort of  
15 information was available.

16 MR. EDWARDS: All right.

17 MR. FREIDIN: That was as a result of a  
18 question from Mr. Martel. So if that information is  
19 available and it will be provided to the Board to deal  
20 with that. I can notify you of that.

21 MR. EDWARDS: I would appreciate that  
22 very much, Mr. Freidin. Thank you.

23 MR. MARTEL: Could I ask a question, Mr.  
24 Armson. I want to go back -- just back up.

25 On private lands such as the land - and I



1 just this because it is an example because it is not  
2 Crown land - land held privately by Algoma, for  
3 example.

4 MR. ARMSON: Yes?

5 MR. MARTEL: Any cutting on that land,  
6 is it subject to the same terms as an FMA holder would  
7 have on Crown land?

8 MR. ARMSON: No.

9 MR. MARTEL: How does that operate then,  
10 Mr. Armson?

11 MR. ARMSON: We have -- we can enter into  
12 agreements with basically small private landowners  
13 under the Woodlands Improvement Legislation and there  
14 are agreement forests with private landowners, largely  
15 municipalities and under those agreements there are  
16 specific statements as to requirements and obligations.

17 But with large-scale owners or industrial  
18 landowners, there is no legislation that applies to  
19 them with respect to timber management, per se.

20 MR. MARTEL: Well, how does it work there  
21 then? Can they just basically do what they want, I  
22 mean, if they wanted to?

23 MR. ARMSON: It is their land. There are  
24 within certain of the counties there are tree-cutting  
25 by-laws, but these do not apply for most of the areas

1 that are in what we will call industrial private  
2 ownership. In fact they don't don't apply in all  
3 counties either.

4 MR. MARTEL: But doesn't Algoma hold a  
5 large tract of land?

6 MR. ARMSON: Yes, a very large tract of  
7 land.

8 MR. MARTEL: But they are not subject to  
9 the same ground rules that everybody else plays by?

10 MR. ARMSON: Certainly not those on Crown  
11 lands.

12 MR. MARTEL: Well...

13 THE CHAIRMAN: That's the law, baby.

14 MR. MARTEL: They caught it.

15 MR. FREIDIN: I hope that's on the  
16 record.

17 THE CHAIRMAN: Probably.

18 MR. EDWARDS: Q. Mr. Armson, just one  
19 final area of questioning. On the area of reserves not  
20 ones that are created after the thoughtful process of  
21 the timber management planning team, but rather ones  
22 that would be created almost automatically, I am  
23 talking about the former 400-foot reserve around lakes.

24 Do you recall?

25 MR. ARMSON: A. I do recollect that

1       there was a blanket at one time.

2                   Q.   There was a blanket reserve which has  
3       been changed; correct?

4                   A.   Yes.

5                   Q.   I see. One of the theories of the  
6       change of reserve is that a skyline reserve would be  
7       more appropriate; that is to say, the steeper the  
8       slope the shorter the reserve?

9                   A.   I think that has been an approach  
10      that has been used, I believe Lake Temagami had a  
11      skyline reserve.

12                  Q.   Are there operational or safety  
13      concerns involved in conducting timber management on  
14      steep slopes?

15                  A.   Yes, I would expect there would be.

16                  Q.   I see.

17                  A.   Depending on the steepness of the  
18      slope and the conditions.

19                  Q.   Is it your experience that the person  
20      in the woods with the chainsaw has any difficulty in  
21      establishing the location of a skyline reserve?

22                  A.   I wouldn't think that the cutter with  
23      a chainsaw would be the appropriate person to make that  
24      determination.

25                  Q.   And often he is the only one there?

1                   A. Oh, I have no idea. In the planning  
2 process, if there is a reserve, I do not believe that  
3 the normal practice would be in the process that the  
4 person with the chainsaw would be determining that.

5                   Q. Sir, would you agree with me that  
6 there are -- when an operation is taking place in a  
7 remote area, as many of these do, the Ministry  
8 personnel are often not around for weeks at a time?

9                   A. I have no idea of the frequency with  
10 which Ministry personnel visit operations.

11                  Q. I see. And it is your evidence that  
12 the use of this type of modified reserve is a practical  
13 thing which can be applied in the field?

14                  A. Are you speaking of the skyline  
15 reserve?

16                  Q. I am talking about the reserve which  
17 is less than 400-feet, you can cut inside 400 feet?

18                  A. I think that it is clear from the  
19 documents and from the process that the decision as to  
20 the location and the extent and nature of a reserve is  
21 related to values that are identified and conditions  
22 that are considered, particularly by the district  
23 planning teams and the persons involved and input into  
24 that team.

25                  Q. Is it your theory these types of



1 guidelines understandable by the person who is out in  
2 the woods doing the cutting?

3 A. The implementation of the guidelines  
4 or the directions or the conditions should surely be  
5 made clear to those who were involved in the activity.

6 Q. Is it your evidence that you believe  
7 that that is being done?

8 A. I can't attest to that since I am not  
9 familiar with the day-by-day operations.

10 Q. I see.

11 MR. EDWARDS: Thank you. Those are all  
12 my questions. I saved an hour, Mr. Chairman.

13 THE CHAIRMAN: Thank you, Mr. Edwards.

14 I think the Board will take a break at  
15 this time and return to hear from Mr. Campbell.

16 Mr. Cassidy, do you have something you  
17 would like to say to the Board?

18 MR. CASSIDY Just to advise the Board,  
19 Mr. Chairman. I have just received some materials  
20 which are in fact a written Notice of Motion from our  
21 office in Toronto.

22 And I am going to take the opportunity  
23 during the break to photocopy them and will be -- I  
24 will try and circulate them. I wish to speak to the  
25 matter when we resume this morning.

1 THE CHAIRMAN: Is this your Motion?

2 MR. CASSIDY: Yes. It is a Motion that  
3 my clients intend to bring in respect of the witness  
4 statements.

5 THE CHAIRMAN: Very well.

6 All right. We will break for 20 minutes.

7 ---Recess taken at 10:05 a.m.

8 ---Upon resuming at 10:30 a.m.

9 THE CHAIRMAN: Thank you, be seated,  
10 please.

11 Mr. Cassidy, do you want to file your  
12 motion at this time?

13 MR. CASSIDY: Thank you, Mr. Chairman. I  
14 now have had copies made of the motion material which  
15 is in draft form. I have provided copies I believe to  
16 all parties and I have copies available for the Board.  
17 (handed)

18 THE CHAIRMAN: Thank you.

19 MR. CASSIDY: Mr. Chairman, I am  
20 addressing you this morning pursuant to Rule 23,  
21 subsection (3) of the Board's Rules seeking directions  
22 from you in the matter of notice of this motion, who it  
23 should be served on and also seeking an appointment  
24 date for the hearing of the motion.

25 THE CHAIRMAN: What rule number?

1 MR. CASSIDY: Section 23, subsection (3).

2 THE CHAIRMAN: Obviously these are not  
3 all committed to memory yet, but they will be shortly.

4 MR. CASSIDY: It simply states, as I  
5 believe was the procedure Mr. Castrilli followed in his  
6 motion, that I have to speak to you to obtain  
7 directions for an appointment.

8 The matter, as you will see by a brief  
9 scan of it, relates to the production of witness  
10 statements. And since Mr. Castrilli's motion which he  
11 received directions from you to have heard on September  
12 1st also deals with witness statements, we are  
13 proposing that this motion be heard at the same time or  
14 consecutively on the same day, being September 1st,  
15 1988.

16 And without -- since my purpose here is  
17 not to debate the merits of the motion, I will not get  
18 into the details of it, rather I believe that should be  
19 reserved obviously to the 1st. I am simply here to ask  
20 that the matter be heard on September 1st and seek your  
21 directions on service.

22 If I can point out one matter, and the  
23 reason I indicated that this is a draft notice is that  
24 if you flip to page 3 you will see that who I propose  
25 to send this to is all parties receiving full-time

1 correspondence as per your party list dated June 10th.  
2 There is, of course, a revised party list dated --

3 THE CHAIRMAN: July 5th, I think.

4 MR. CASSIDY: Yes.

5 THE CHAIRMAN: Or August 5th.

6 MR. CASSIDY: August 5th. And, as a  
7 result of that revision, I propose to send this to all  
8 full-time parties as per your list dated August 5th  
9 with your direction on that, and I am also advised via  
10 the rumour mill - and, I have no firm knowledge of this  
11 other than what I was advised by Mr. Castrilli in  
12 reading the newspaper - that there may be a mail strike  
13 and I was growing to propose that this matter be served  
14 by ordinary mail. And in the event that there is a  
15 mail strike, I would seek your permission to serve this  
16 matter by courier on all full-time parties and that  
17 basically is the thrust of my submissions this morning.

18 THE CHAIRMAN: As I recall the newspaper  
19 article, the post office may be in a legal position to  
20 strike early next week.

21 MR. CASSIDY: The workers.

22 MR. CAMPBELL: I think the Chairman got  
23 it right.

24 THE CHAIRMAN: Whoever. But the strike  
25 could or the stoppage, the mail shutdown could start



1 next week.

2 Mr. Castrilli, you of course have already  
3 sent your motion, have you, to the party list?

4 MR. CASTRILLI: No, Mr. Chairman, as a  
5 matter of fact they will be going -- all the notices  
6 will be going out on Friday morning.

7 THE CHAIRMAN: Well, I think this  
8 probably would be applicable to both of you. I think  
9 if both of you could serve it together, or on the same  
10 day.

11 MR. CASSIDY: Well, I would see no  
12 difficulty in having these going out by regular mailing  
13 tomorrow morning to all parties receiving full-time  
14 correspondence as per the parties' list dated August  
15 5th.

16 THE CHAIRMAN: And if you would serve  
17 yours tomorrow as well by ordinary mail, Mr. Castrilli,  
18 and then if there is a mail shutdown I think the  
19 alternative of serving it by courier would be the  
20 appropriate way to go.

21 If we are going to have September 1st as  
22 the date for the return of the motion, obviously the  
23 parties have to have sufficient notice so they can  
24 prepare an argument.

25 MR. CASSIDY: Thank you.

1                   Just to clarify that. I propose to send  
2                   it to all full-time parties receiving correspondence as  
3                   opposed to parties who may in fact just happen to be  
4                   here in the hearing room.

5                   THE CHAIRMAN: Well, I think there is  
6                   some confusion over the terminology. I think who  
7                   should be served with a motion of this type is all  
8                   parties on the list receiving full-time correspondence.

9                   MR. CASSIDY: Thank you.

10                  THE CHAIRMAN: Differentiating that from  
11                  what we have termed, from time to time, full-time  
12                  parties who are in attendance at the hearing.

13                  There are some others who want full-time  
14                  correspondence but who are not here on a regular basis.  
15                  They should receive the motion.

16                  MR. CASSIDY: Thank you, Mr. Chairman.

17                  THE CHAIRMAN: The Board will then also  
18                  hear this motion on September 1st, as well as Mr.  
19                  Castrilli's. It probably seems unlikely that we will  
20                  get to any evidence that day, bearing in mind the two  
21                  motions before us.

22                  MR. CASSIDY: Thank you.

23                  MR. FREIDIN: Mr. Chairman, before Mr.  
24                  Campbell begins his cross-examination, I understand  
25                  that there may be some people who are not clear as to

1        what evidence the panel will be giving arising out of  
2        Mr. Cary's cross-examination, and perhaps why it can't  
3        be done before Mr. Campbell cross-examines.

4                    I just want to make it clear that that  
5        evidence is going to involve the use of some maps, some  
6        photographs, things which are not in Thunder Bay at the  
7        present time but, again, I understand the panel hope to  
8        be able to pull all that material together this weekend  
9        so they can deal with that on Wednesday.

10                   So that I guess everybody who is here  
11        today will be here on Wednesday and then there could be  
12        a separate cross-examination.

13                   THE CHAIRMAN: That's right. Everybody  
14        will have an opportunity to cross-examine Mr. Cary on  
15        that portion of his evidence only.

16                   MR. FREIDIN: Very well.

17                   THE CHAIRMAN: Next week.

18                   Very well, Mr. Campbell, are you ready to  
19        proceed?

20                   MR. CAMPBELL: Thank you, Mr. Chairman.

21                   Mr. Chairman, just before proceeding, I  
22        have provided Mr. Mander and Mr. Freidin and the panel  
23        with an outline of materials that I expect to be  
24        touching on today. I don't expect to reach it today,  
25        although it is not impossible, the Ministry of the

1 Environment interrogatories and, for the sake of  
2 convenience, I have taken the Ministry of the  
3 Environment interrogatories, stapled them together and  
4 numbered the pages, distributed them to the panel and  
5 there should be copies on the various tables around.

6 And I have put up in front of you, Mr.  
7 Chairman, beneath the Bible, the Ministry of the  
8 Environment interrogatories.

9 THE CHAIRMAN: Any significance to the  
10 location?

11 MR. CAMPBELL: Absolutely, Mr. Chairman.  
12 And I would ask that that package be given the next  
13 exhibit number. It will be referred to eventually in  
14 the course of my cross-examination.

15 THE CHAIRMAN: Very well. We will put in  
16 this package as Exhibit No. 179.

17 ---EXHIBIT NO. 179: Interrogatories filed by MOE.

18 MR. CAMPBELL: It might be helpful, Mr.  
19 Chairman, over the weekend if the Board could take the  
20 opportunity to read through that package. This is  
21 evidence of the proponent and I think it is quite  
22 appropriate that the Board be permitted to do that,  
23 whether or not it is ever referred to in  
24 cross-examination.

25 And I take it Mr. Freidin would have no



1 objection?

2 MR. FREIDIN: You know, I have got to go  
3 back and see what the agreement was. I am not too sure  
4 what the understanding was with interrogatories.

5 MR. CAMPBELL: Well, Mr. Chairman, I can  
6 straighten it out with the panel in about two questions  
7 and that will take care of it.

8 CROSS-EXAMINATION BY MR. CAMPBELL:

9 Q. Mr. Cary, I take it that you did  
10 receive interrogatories from the Ministry of the  
11 Environment?

12 MR. CARY: A. They were received by  
13 Houser, Henry, I believe and I then received them.

14 Q. And the answers that I have provided  
15 you a copy with, were the answers provided to me by the  
16 Ministry of Natural Resources?

17 A. Yes.

18 Q. And is there any change or amendment  
19 that you wish to make to the material that is provided  
20 in those answers?

21 A. I do not wish -- I haven't actually  
22 read word for word, but they appear to be exactly  
23 similar to the copies that I have.

24 Q. Well, assuming they are the answers  
25 that were provided, does the Ministry of Natural

1 Resources adopt those answers as the answers to the  
2 interrogatories submitted?

3 A. Yes.

4 MR. CAMPBELL: Thank you, Mr. Chairman.  
5 And, as I say, if the Board would --

6 THE CHAIRMAN: You don't have much  
7 choice, Mr. Freidin.

8 MR. FREIDIN: Well, I thought it was  
9 wonderful.

10 MR. CAMPBELL: I thought if the Board  
11 would take the opportunity to look at those over the  
12 weekend, as I say, I may or may not be referring to  
13 them, but it is not onerous task I'm asking you in any  
14 event.

15 Q. Mr. Cary, I think my first questions  
16 are for you. Am I correct that amongst your other  
17 duties your job is to advise counsel in this matter on  
18 policy matters; is that correct?

19 MR. CARY: A. Yes. Timber policy and to  
20 do with the timber program.

21 Q. All right. And the Forest Production  
22 Policy is one of those policy matters?

23 A. Yes.

24 Q. And presumably that is why you are  
25 the witness on this panel speaking to the Forest

1 Production Policy?

2 A. Yes.

3 Q. Now, in his opening statement for  
4 this panel Mr. Freidin made a number of remarks  
5 outlining the evidence that the panel would be giving.  
6 Do you recall that?

7 A. I do.

8 Q. Do you agree with what your counsel  
9 said with respect to your portion of the testimony?

10 A. I cannot recall it exactly, but I  
11 recall agreeing with it at the time, yes.

12 Q. Are you prepared to adopt those  
13 remarks as your testimony in these proceedings, as an  
14 addition to your testimony in these proceedings, in  
15 that you take no disagreement with them?

16 A. I take no disagreement.

17 THE CHAIRMAN: Is there something  
18 specific about those remarks that you could refer us  
19 to?

20 MR. CAMPBELL: Well, Mr. Chairman --

21 THE CHAIRMAN: I mean, we can go back,  
22 but we would have to go back on the record. I don't  
23 recall --

24 MR. CAMPBELL: I don't want to take the  
25 witnesses through all of those remarks. It may become

1 necessary for me to refer to them, I hope not.

2 What I want to be clear is that there are  
3 a number of statements of a factual basis that were  
4 made in those remarks and I want to be absolutely clear  
5 that for each member of this panel that there is  
6 nothing in those remarks that they disagree with.

7 And I am going to ask the other members  
8 of the panel exactly the same thing. And that 's  
9 really just -- the purpose of my question is simply  
10 that.

11 THE CHAIRMAN: Well, I do not know if the  
12 panel is in the same difficulty that the Board is, in  
13 not being able to recall word for word what those  
14 remarks were.

15 MR. CARY: I am, Mr. Chairman.

16 THE CHAIRMAN: I think, if you are going  
17 to propose to do that, Mr. Campbell, we are going to  
18 have to allow the panel an opportunity to look at the  
19 transcript of those remarks and then decide whether or  
20 not they agree in their entirety with those comments.

21 MR. CAMPBELL: All right. Well, I think  
22 what I will do then, Mr. Chairman, is just ask.

23 Q. First, Mr. Armson, is there anything  
24 that you recall disagreeing with in what Mr. Freidin  
25 said?



1 MR. ARMSON: A. Not that I recall, but  
2 as the Board said, I would appreciate being able to  
3 read the remarks.

4 Q. Dr. Osborn, is there anything that  
5 Mr. Freidin said that you recall disagreeing with?

6 DR. OSBORN: A. I have the same concern.  
7 Unless the written word is in front of me, I am in no  
8 position to agree or disagree at this point in time.

9 Q. Do you recall disagreeing at the  
10 time?

11 A. No.

12 Q. And, Mr. Gordon, would the answers be  
13 the same to those questions from you?

14 MR. GORDON: A. I do not recall the  
15 specifics of Mr. Freidin's comments.

16 Q. Do you recall disagreeing with them  
17 at the time?

18 A. I do not recall whether I agreed or  
19 disagreed.

20 MR. CAMPBELL: Mr. Chairman, I am content  
21 to leave it that the panel take whatever time, whenever  
22 they want, to review that and simply advise if in fact  
23 they disagree with anything that was said.

24 MR. FREIDIN: I am just wondering whether  
25 Mr. Campbell could be of assistance. As I understand

1 it, he is asking whether they agreed with the comments  
2 that I have made in relation to the Forest Production  
3 Policy.

4 And, if that is the case, I assume Mr.  
5 Campbell has a concern about a certain section of the  
6 transcript which he has read and, if that is the case,  
7 then I would ask that he advise these witnesses what  
8 portion of the transcript they should go to, otherwise  
9 they are going to have to go through...

10 THE CHAIRMAN: That is one concern. The  
11 second concern is, I am not sure that the transcript  
12 of -- I guess, yes, the transcript would be available.

13 MR. CAMPBELL: Yes.

14 THE CHAIRMAN: That goes back far enough.  
15 So that is not a concern. Well, can you point us to  
16 some page numbers, Mr. Campbell?

17 MR. CAMPBELL: Well, I will speak to Mr.  
18 Freidin late, Mr. Chairman. There is one point in my  
19 cross-examination that - without being coy about it -  
20 that if Mr. Cary disagrees with, then I will be  
21 referring to specifically.

22 Other than that, it is just a general --  
23 I want to be sure that what is said in the transcript--

24 THE CHAIRMAN: Well --

25 MR. CAMPBELL: --the witnesses agree with

1 it as opposed to having it just sit there.

2 THE CHAIRMAN: Well, I think in fairness,  
3 Mr. Campbell, when somebody else, whether it is the  
4 party's counsel or not, makes a statement which is of  
5 some length and then you are asking individually each  
6 of the panel members whether they agree in its  
7 totality, they must be afforded the opportunity of  
8 looking at those remarks verbatim and then addressing  
9 their minds to the particular points set out therein as  
10 to whether or not they agree with them.

11 MR. CAMPBELL: All right. Well, I am  
12 sorry, Mr. Chairman. I would had assumed that this had  
13 been worked out with the witnesses and that they would  
14 be familiar with what Mr. Freidin was going to say.

15 THE CHAIRMAN: Well, they may be  
16 familiar generally, but you are asking a very specific  
17 question and if it turns out that they say, yes, we  
18 agree and then later on there is a point upon which  
19 their evidence varies, you know, you are going to be  
20 referring back to it and say: Well, didn't you agree  
21 in cross-examination.

22 So I think they should be afforded the  
23 opportunity of actually looking at the material before  
24 they have to answer that question.

25 MR. CAMPBELL: That's fine.

1 MR. CARY: Mr. Chairman, I would like to  
2 have that opportunity to review the transcript, please.

3 THE CHAIRMAN: Mr. Campbell, the court  
4 reporter is having a little difficulty hearing your  
5 words.

6 MR. CARY: Mr. Chairman, I would like to  
7 have the opportunity to review the transcript of what  
8 Mr. Freidin said, please.

9 THE CHAIRMAN: Well, can each of you  
10 review Mr. Freidin's remarks over the weekend. I  
11 understand the transcript is available and if you want  
12 to return to this--

13 MR. CAMPBELL: Well, I think --

14 THE CHAIRMAN: --I guess on Wednesday.

15 MR. CAMPBELL: I have simply asked each  
16 member of the panel that if there is material there  
17 that they disagree with that they so advise, and I  
18 think -- I am quite content to leave it on that basis,  
19 Mr. Chairman.

20 MR. FREIDIN: And is the question then in  
21 relation to comments regarding the Forest Production  
22 Policy only?

23 MR. CAMPBELL: Well, I --

24 MR. FREIDIN: Because I talked about what  
25 the evidence would be, et cetera, in panels that these



1 people have absolutely nothing to do with, so...

2 MR. CAMPBELL: Well, Mr. Chairman, this  
3 is getting a lot more complicated than I ever intended  
4 it to be. It is with respect to the matters in  
5 evidence by each member of the panel, that is what my  
6 question is about.

7 I just want to be sure that that  
8 material, those statements that are made there are, in  
9 these witnesses' mind, indeed consistent with the  
10 evidence that they gave.

11 I have no doubt that they are going to be  
12 able to say to the question yes, it is just that I do  
13 this out of an abundance of caution.

14 MR. FREIDIN: Well, that in my submission  
15 is my evidence before the Board.

16 MR. CAMPBELL: It makes it their  
17 testimony, not your evidence, Mr. Freidin.

18 THE CHAIRMAN: They in effect adopt your  
19 submissions. All right, let's leave it on that basis.

20 MR. CAMPBELL: As I say, Mr. Chairman I  
21 didn't mean it to be this complicated.

22 Q. Well, all of that said, Mr. Cary, I  
23 guess we will turn to the actual policy which was the  
24 subject of your testimony.

25 Now, are you able to give a definitive

1 answer to the question as to whether this Board should  
2 be operating on the assumption that the new policy will  
3 or will not be in place at the time that this Board  
4 makes it decision?

5 MR. CARY: A. As I responded to Ms.  
6 Koven, I believe the process will take a minimum of a  
7 year, and so I am not able to give a definitive answer.

8 Q. All right. Now, for the time being  
9 then I take it that you, being the Ministry, expect the  
10 Board to give weight to the Forest Production Policy as  
11 stated; is that correct?

12 A. I expect the Board to consider that,  
13 yes.

14 Q. And yet in considering that, the  
15 Board is now fully aware that there is at least the  
16 possibility that the new policy will never come before  
17 it?

18 A. Whether there is a new policy, of  
19 course, as I suggested, there are three outcomes. I  
20 suppose that policy does -- that possibility does  
21 exist.

22 Q. All right. Now, doesn't that create  
23 a rather difficult dilemma for this Board in terms of  
24 the conclusions which it is expected to draw from the  
25 existing policy?

1                   A. The performance over the last 16  
2 years, I suggest, the Board may be interested in. The  
3 undertaking before this Board goes way beyond the  
4 Forest Production Policy into the effects of the  
5 undertaking; the renewal, the access, maintenance.

6                   So the Forest Production Policy is part  
7 and should be part of the Board's consideration, but it  
8 isn't the whole of the Environmental Assessment  
9 undertaking.

10                  THE CHAIRMAN: But aren't aspects of our  
11 consideration of the effects also dependent upon the  
12 policy if we chose to follow a policy?

13                  I mean, you must appreciate, as I  
14 understand our mandate, Mr. Cary, the Board must take  
15 cognizance of the policy, but is not necessarily bound  
16 to follow it.

17                  MR. CARY: I agree, Mr. Chairman.

18                  MR. CAMPBELL: Q. Mr. Cary, I enjoyed  
19 your answer but, with respect, it was not an answer to  
20 my question. My question was: Doesn't this create a  
21 very real dilemma for the Board as to what guidance, if  
22 any, it can be expected to take under these  
23 circumstances?

24                  MR. CARY: A. Yes, it creates a  
25 dilemmafor the Board.

1 Q. And that dilemma, the policy being so  
2 fundamental to this matter, that dilemma is a real and  
3 significant one; would you agree?

4 A. I would agree that it is a real  
5 dilemma.

6 Q. You aren't suggesting that it is  
7 insignificant?

8 A. No, I am not.

9 Q. Now, with respect to the reference in  
10 the Environmental Assessment Document to the new  
11 policy, at the time that document was filed in June or  
12 July of this year -- July 6th, I believe, '87 it was  
13 expected that the new policy would be available by  
14 October, '88. Is that correct?

15 A. That is correct.

16 Q. And clearly that with respect to the  
17 reference in that in the Environmental Assessment  
18 Document that will have to be amended?

19 A. That's correct.

20 Q. Now, could you advise, please, what  
21 MNR's -- or what your view is, rather, your MNR's view  
22 is on what happens if the new policy turns out to be  
23 inconsistent with the existing policy or inconsistent  
24 with this Board's decision?

25 Which would MNR give priority to in



1 timber management planning?

2 A. Could you clarify inconsistent? I  
3 don't mean to be obtuse, but what do you mean  
4 inconsistent? As an inconsistent target with the one  
5 we have now?

6 Q. Let me break it down.

7 A. Okay.

8 Q. Let's take the hypothetical that in  
9 some way the new policy turns out to be different.

10 A. In what way, a different level?

11 Q. Well, you will have to define for me  
12 the ways in which it could possibly be different. I am  
13 prepared to have you give a list, but I think my  
14 question is more general than that.

15 If it is different in some way that  
16 materially affects this Board's considerations, it  
17 turns out to be different --

18 I guess I will ask you the question:  
19 If the new policy comes out in two time frames, in the  
20 first time frame what is this Board supposed to do if  
21 that happens in the middle of this hearing, how do you  
22 expect it to deal with that; and, secondly, what  
23 happens if that happens after the Board's decision?

24 MR. FREIDIN: Mr. Chairman, I think the  
25 question being asked probably is a legal question which

1 this witness is not qualified to answer.

2 I am certainly not going to try and  
3 answer that question right here off the top of my head.  
4 If Mr. Campbell wants to know what the Ministry's  
5 position is or what the answer is to those questions, I  
6 can undertake to advise him of what the Ministry's view  
7 is in relation to those questions.

8 MR. CAMPBELL: Well, Mr. Chairman I am  
9 prepared to approach it a slightly different way.

10 Q. Mr. Cary, you give policy advice to  
11 the Ministry and to counsel; do you not?

12 MR. CARY: A. To counsel.

13 Q. And within the Ministry?

14 A. And within the Ministry, within the  
15 Forest Resources group.

16 Q. Yes. And in relation to this  
17 proceeding?

18 A. The environmental -- yes, this  
19 proceeding.

20 Q. All right. What policy advice --  
21 what policy considerations would you see as being  
22 relevant to this Board's considerations in the event  
23 that there is a material difference inbetween the new  
24 policy and the old policy? What is your view?

25 A. It is my view that the Board should

1 consider those differences, inconsistencies and should  
2 there be an issue, I presume the Board will raise it  
3 and the Ministry will respond.

4 Q. And from a policy perspective, what  
5 advice would you, as a policy advisor, see as being  
6 relevant in the event that that occurs after this  
7 Board's decision?

8 MR. FREIDIN: Mr. Chairman, I think the  
9 line of question, whether it is couched in terms of  
10 what we say as a matter of policy, it is still a legal  
11 question and the real nub of the question is: What is  
12 the legal effect of that.

13 And although I indicated that I wouldn't  
14 want to give my, sort of, submissions off the top of my  
15 head, I should just add, in relation to the second  
16 hypothetical of something coming after, leaving  
17 aside -- let's assume that it would be legal, it  
18 actually changes the policy afterwards because -- for  
19 some reason, the Ministry's asking for approval of this  
20 class EA for a very short period of time - I don't  
21 know - I think five or six years, something that will  
22 have to be done by this Board will be to determine what  
23 really happens at the end of that particular approval  
24 period.

25 But I think that's something that should

1 be kept in mind when considering the second part of  
2 that question. But, in any event, I still think these  
3 questions are matters which are more properly addressed  
4 to the Ministry generally and should be answered by  
5 their counsel.

6 THE CHAIRMAN: Mr. Campbell, I have some  
7 sympathy with Mr. Freidin's concerns in terms of the  
8 fact that the answers to your questions border on legal  
9 argument as to the legal effect of the Board's ability  
10 to make a decision and, if it makes a decision before  
11 the policy changes, what may be the effect of that, et  
12 cetera.

13 I appreciate the fact that Mr. Cary gives  
14 policy advice, is the policy advisor to the Ministry  
15 and that, by no means, is meant to indicate that the  
16 Ministry should not be taking a position vis-a-vis your  
17 questions and you are entitled, I think, and the Board  
18 is entitled, to answers to your questions based on what  
19 would happen if the policy in fact did change and, in  
20 view of the two time frames that you mentioned.

21 But would it not be a more appropriate  
22 way to allow Mr. Cary to discuss the matter, if he is  
23 the one that discusses the matter, with the Ministry's  
24 counsel and then Mr. Freidin give the Ministry's  
25 position with respect to the two prongs of your



1 question?

2 MR. CAMPBELL: Well, I --

3 THE CHAIRMAN: Because I do not think you  
4 can separate, as conveniently as one might like to, the  
5 policy considerations from the legal effects. I think  
6 the two are intertwined, at least to some extent.

7 MR. CAMPBELL: Well, Mr. Chairman, with  
8 respect, in my view, the question of the policy  
9 considerations that relate to this decision are, while  
10 it is correct that there may be a legal question once  
11 those are answered, in my submission, there are very  
12 real practical questions that the Board is left with  
13 that haven't been answered.

14 In any event, I am quite content to leave  
15 that question --

16 THE CHAIRMAN: But the Board isn't  
17 suggesting that this matter be left to argument.

18 MR. CAMPBELL: Well, I am quite content  
19 to leave that question, Mr. Chairman. I have some  
20 other questions in this area and I guess we will just  
21 have to deal with them as they go through.

22 I want a better understanding of what  
23 this is all about, that is all.

24 THE CHAIRMAN: Well, I think -- just one  
25 moment.

1 ---Discussion off the record.

2 THE CHAIRMAN: Excuse us for a moment.

3 MR. CAMPBELL: Certainly.

4 ---Discussion off the record

5 THE CHAIRMAN: Well, Mr. Campbell, the  
6 Board has briefly conferred as to the subject matter of  
7 your last couple of questions and we are of the opinion  
8 that notwithstanding you may want to move on to  
9 something else, which is fine, we would like the  
10 answers to those questions, but we would like them  
11 after Mr. Cary, or whoever else is appropriate, has had  
12 an opportunity to discuss it with their counsel and the  
13 Ministry can formulate a position to put forward on  
14 these questions as answers.

15 We do not feel that these questions  
16 should be left to argument at the end of the case  
17 because we are faced with a situation where there is an  
18 existing policy which is in the process of possibly  
19 being changed, the evidence is coming in throughout the  
20 course of this hearing, and we would like to understand  
21 what the Ministry's position is, at least with respect  
22 to the Board's consideration of the evidence at one  
23 point based on the old policy and, at some point  
24 farther down the line maybe based on a new policy or,  
25 as the alternative, if the policy has changed, after

1 the Board has rendered its decision.

2 And I think it is important enough that we  
3 get some of those answers now as opposed to waiting  
4 until after all of the evidence is in and this matter  
5 being left for legal argument.

6 MR. CAMPBELL: And if I created the  
7 impression I am moving on to an entirely new area, that  
8 is not quite correct. I still have some additional  
9 questions in this area. But I think my friend will  
10 have to listen carefully.

11 MR. FREIDIN: Again, there is no question  
12 about what the question is, but I would ask that Mr.  
13 Campbell then formulate in writing the specific  
14 questions which he wishes to be addressed.

15 It has been stated by three people now,  
16 and I don't want any confusion when I am discussing  
17 this matter with whomever I may discuss it.

18 MR. CAMPBELL: I have no difficulty with  
19 that, Mr. Chairman, except that I will have to wait  
20 until the transcript comes out at this point.

21 THE CHAIRMAN: Okay. Well, we are not  
22 going to deal with it today in any event, so if you  
23 wouldn't mind doing that, I think it would clarify  
24 things for everybody.

25 MR. CAMPBELL: All right.

1 Q. Mr. Cary, the new policy, as I  
2 understand it, is being developed in the area of six  
3 position papers; is that not correct?

4 MR. CARY: A. That's correct.

5 Q. The first of those is the 1972  
6 Policy, it relates to the 1972 Policy?

7 A. Yes.

8 Q. And is that not an issue which is  
9 being canvassed in this hearing extensively?

10 A. Yes.

11 Q. And the second area relates to the  
12 old forest?

13 A. No, the second area that I listed --

14 Q. They may not be in the right order.

15 A. Oh.

16 Q. But is it not correct that there is  
17 also going to be a policy paper on the old forest?

18 A. There is going to be a paper on the  
19 old forest, yes.

20 Q. And is that not a matter that is  
21 under active consideration in this hearing?

22 A. It is.

23 Q. And the third area, the next area in  
24 my listing is related to the new forest?

25 A. Yes.



1 Q. And is that not a matter which is  
2 under direct consideration in this hearing?

3 A. It is.

4 Q. The next matter in my listing is  
5 socio-economic considerations, that's the next policy  
6 matter?

7 A. That's correct.

8 Q. The area covered by the paper?

9 A. Yes.

10 Q. And am I not correct that that is a  
11 matter which is going to be under direct consideration  
12 in these hearings?

13 A. You are correct.

14 Q. The next area relates to  
15 environmental considerations?

16 A. That's correct.

17 Q. And I take it you would agree that's  
18 a matter under direct consideration in this hearing?

19 A. Yes.

20 Q. And the final matter on my listing is  
21 demand; am I correct in that?

22 A. Yes, industrial demand.

23 Q. And is it not correct that that is a  
24 matter which, to a greater or lesser degree - without  
25 reviving yesterday's argument - but, that to a greater

1 or lesser degree, is under direct consideration in  
2 these hearings?

3 A. You are correct.

4 Q. Now, is it fair to say that outside  
5 of MNR this Board will be the best educated public  
6 group in Ontario on MNR forest management matters,  
7 certainly by the time this hearing is over?

8 THE CHAIRMAN: You are very  
9 complimentary, Mr. Campbell.

10 MR. CASSIDY: What about the lawyers?

11 MR. FREIDIN: I will take full credit for  
12 that.

13 MR. CASSIDY: I am going to write the RPF  
14 exams.

15 MR. CAMPBELL: I am going on the  
16 assumption that occasionally, just occasionally the  
17 lawyers daydream, but the Board never does.

18 Q. Is that a fair conclusion?

19 MR. CARY: A. Yes.

20 Q. Now, would you agree with me then  
21 that the views of this Board on any new proposed Forest  
22 Production Policy would be extremely valuable to the  
23 persons making a decision as to whether or not to adopt  
24 that proposed policy?

25 A. I would say it would have to be a

1 factor.

2 Q. Would you agree with me that the  
3 views would be extremely valuable to those people?

4 A. The views of the papers?

5 Q. The views of this Board on those  
6 matters covered by this paper would be extremely  
7 valuable to the people who have to make a decision on  
8 whether or not to adopt a policy?

9 A. After the evidence has been  
10 presented, yes.

11 Q. Now, under those circumstances, would  
12 it seem reasonable to you for this Board -- for a term  
13 and condition to be considered by this Board such that  
14 it, in some way, it remain seized of this matter and  
15 have the opportunity to consider the new policy or its  
16 decision in light of that proposed policy?

17 Is that a reasonable proposition?

18 MR. FREIDIN: Mr. Chairman, again, I  
19 can't deal with this on a legal basis. I am not too  
20 sure of whether in fact -- I don't know what my friend  
21 means by the Board remain seized of this matter from a  
22 legal point of view, and I have some question --

23 THE CHAIRMAN: Do you mean this panel, to  
24 start off with?

25 MR. CAMPBELL: Absolutely, Mr. Chairman.

1                   And if there is any lack of clarity, I  
2           think there are two distinct questions here. There is  
3           a legal question as to whether the Board has the  
4           capability or whether a term and condition can be  
5           designed along the lines of what I have outlined.

6                   There is a quite separate question as to  
7           whether this witness thinks something like that would  
8           be a good idea and I think I am entitled to that second  
9           question to be answered, Mr. Chairman.

10                   THE CHAIRMAN: I think the second  
11           question is a fair question, Mr. Freidin.

12                   MR. CAMPBELL: Q. Mr. Cary, do you want  
13           me restate the question, and I can do it, I think, more  
14           simply in light of that.

15                   MR. CARY: A. If you would please  
16           restate.

17                   Q. Would you please advise as to  
18           whether, in your opinion, it would be a good idea for  
19           some sort of term and condition to be designed that  
20           would allow this Board to, in some way, remain active  
21           or to remain constituted for the purpose of considering  
22           any new proposed policy in forest production?

23                   A. Any...?

24                   MR. FREIDIN: Any new proposed policy?

25                   MR. CAMPBELL: Any proposed changes to



1 the policy for forest production.

2 Q. Do you think that's a good idea or a  
3 silly idea?

4 MR. CARY: A. I have a great deal of  
5 trouble providing advice to the Board. I don't think  
6 I'm qualified to do that.

7 Q. I just want an answer to the  
8 question, Mr. Cary.

9 A. I know. I am having great trouble in  
10 this area. All I can say is that the Board should  
11 consider -- should new proposals come forward, the  
12 Board should consider those.

13 Q. Well, with respect, Mr. Cary, that is  
14 not responsive to my question.

15 A. Whether the Board should remain  
16 constituted.

17 Q. Assuming - make the assumption - that  
18 this panel, these three people, who will be the best  
19 educated people in Ontario outside MNR on forest  
20 matters, will assume that something can be designed so  
21 that this Environmental Assessment hearing doesn't just  
22 disappear in a puff of smoke with or without the new  
23 policy.

24 THE CHAIRMAN: Well, Mr. Campbell, just  
25 to clarify it, would we have in your scenario --

1 MR. CAMPBELL: Let me conclude, I am  
2 getting a little overly dramatic, Mr. Chairman.

3 THE CHAIRMAN: Would we have rendered a  
4 decision already or would the decision be pending the  
5 development of the new policy that the Board would  
6 remain constituted to consider this new policy as it  
7 came down?

8 MR. CAMPBELL: I really don't want to get  
9 into trying to get this witness to design how that  
10 could be done.

11 It could be done by way -- I mean, I  
12 haven't given that a lot of thought. The Board could  
13 perhaps make an interim decision subject to having the  
14 opportunity to review its conclusions in light of that  
15 policy. There is a whole lot of ways it could be done.

16 But what I am asking this witness is that  
17 before this panel finally leaves that matter, before it  
18 finally leaves this matter, is it a good idea that they  
19 hold them -- that they not finally leave this matter  
20 until such time as they have an opportunity to  
21 determine whether a proposed new policy or a new policy  
22 itself bears upon their conclusions on this matter?

23 MR. FREIDIN: I would like to respond to  
24 that, Mr. Chairman.

25 MR. CAMPBELL: Well, Mr. Chairman, that's

1 the same question and I believe the Board --

2 MR. FREIDIN: No, it is not.

3 MR. CAMPBELL: Well, I will go back and  
4 get the transcript then and put the question the other  
5 way, because I think it is exactly the same question,  
6 it's not in precisely the same words.

7 MR. FREIDIN: You added something -- you  
8 added the words: "...or a new policy itself bears  
9 upon..." And there is quite a distinction between what  
10 he said originally and what he said by adding the  
11 words: "...or a new policy itself."

12 I think that is important and is my  
13 reason for rising. To go back to his question: Is it  
14 a good idea that some sort of term or condition be  
15 designed to allow this Board to remain active or  
16 constituted for the purpose of considering any proposed  
17 changes to the policy.

18 The question that I think -- the  
19 clarification that I would like, before any decision is  
20 made as to whether the witness should answer that  
21 question, is when he says: be constituted for the  
22 purpose of any proposed changes to the policy, is he  
23 referring to the proposed changes assume there is a  
24 proposal for changes made by the Ministry of Natural  
25 Resources to government, or is he going wider afield

1 and asking or raising a question as to whether in fact  
2 the Board should become seized of this matter until  
3 somehow government, Cabinet advises the Board that it  
4 is considering making a change in the policy?

5 Because the second situation in fact  
6 would, if we follow it through to its logical  
7 conclusion, would end up with the Board in some way  
8 sitting as Cabinet.

9 MR. CAMPBELL: Oh, that's nonsense, Mr.  
10 Chairman.

11 MR. FREIDIN: Those are my submissions.

12 MR. CAMPBELL: Mr. Chairman, I will do it  
13 in two questions, that's fine.

14 MR. MARTEL: Could I ask a question first  
15 because I sit here trying to -- we have been listening  
16 to evidence for 35 or 36 days, we have got tons of  
17 material coming based on the old policy and yet before  
18 we come to a decision, possibly, we are going to be  
19 asked to make a decision on new policy as it applies.

20 How is this supposed to be done, in  
21 pretty simple lay terms? I am not a lawyer, but how  
22 are we supposed, as a Board, consider all the stuff  
23 that is being presented to us now and, at the same  
24 time, the Ministry is preparing a new policy that might  
25 be presented and, at that time, we have to spin our



1 wheels, change gears to adopt a decision based on a new  
2 policy, Forest Production Policy?

3 MR. CAMPBELL: Mr. Martel, with respect,  
4 I don't see how Mr. Freidin or myself or anybody can be  
5 expected to make submissions on that matter in light of  
6 the fact that the Board has asked for a view on this  
7 and I think that, with respect, that question is  
8 already posed by your Chairman.

9 ---Discussion of the record

10 THE CHAIRMAN: Sorry.

11 MR. CAMPBELL: Q. All right. My  
12 question then, I will restate it and try again. My  
13 question to you, Mr. Cary is --

14 MR. FREIDIN: Is there a ruling on that?

15 THE CHAIRMAN: I think what he is going  
16 to try and do, as far as Mr. Martel's question?

17 MR. FREIDIN: Well, no. I was just  
18 wondering whether I missed something because is he  
19 going to put a question now in the same --

20 THE CHAIRMAN: What he is going to do, I  
21 think, Mr. Campbell, is pose a question to Mr. Cary  
22 rephrasing it to take into account Mr. Freidin's  
23 objections and see if your newly phrased question is  
24 acceptable to Mr. Freidin without rising with another  
25 objection.

1 MR. CAMPBELL: And I will not only try  
2 and take into account Mr. Freidin's objection, but I  
3 will take try and match it to the ruling that you have  
4 made on the one that we have all forgotten now.

5 THE CHAIRMAN: Right.

6 MR. CAMPBELL: Q. Now, Mr. Cary, my  
7 question to you then is: Do you think it is a good  
8 idea or a silly idea for some scheme to be devised  
9 whereby this panel does not finish with that matter  
10 finally until it has before it a new policy proposal  
11 which is - and to address Mr. Freidin's concern - which  
12 is the policy proposal of the MNR, proposed policy of  
13 the MNR having completed this extensive review?

14 That's my question.

15 MR. CARY: A. I see two and perhaps  
16 there are more options, but one would be for the Board  
17 to put a condition on its approval that would perhaps  
18 mandate a review if the policy -- if the proposals that  
19 MNR were to present were significantly different, or it  
20 could remain constituted.

21 I see those two options.

22 Q. Is it a good idea that it remain  
23 constituted; do you think?

24 A. I think that's an option for the  
25 Board.

1 Q. Do you think it is a good option?

2 A. I wouldn't have said it -- yes, I  
3 think it is a good option.

4 Q. Thank you. Now --

5 ---Discussion off the record.

6 THE CHAIRMAN: Mr. Campbell, I hope you  
7 are not committing the panel to the 21st Century.

8 MR. CAMPBELL: I have a bad reputation  
9 for doing just that, Mr. Chairman, with every panel in  
10 front of which I appear, as you may be aware.

11 However, I think my own sense of this is  
12 that, in a practical sense, it is unlikely to be a very  
13 real problem.

14 MR. FREIDIN: I think the witnesses  
15 should be very clear that the panel being referred to  
16 is not you four.

17 THE CHAIRMAN: Okay. Let's proceed.

18 MR. CAMPBELL: Q. Now, turning to the  
19 Forest Production Policy, Exhibit 136, this document  
20 was prepared by the Ministry of Natural Resources; was  
21 it not.

22 MR. CARY: A. That's correct.

23 Q. I would like to turn you to page  
24 12 -- page 11, I guess first, Mr. Cary.

25 THE CHAIRMAN: Exhibit 136?

1 MRS. KOVEN: Which document, Mr.  
2 Campbell?

3 MR. CAMPBELL: It's Exhibit 136, the  
4 Forest Production Policy for Ontario.

5 THE CHAIRMAN: We will share ours.

6 MR. CAMPBELL: Okay.

7 THE CHAIRMAN: Sorry, what page number?

8 MR. CAMPBELL: Page 11, Mr. Chairman.

9 Q. Just before dealing with the material  
10 at that page and following, am I correct in my  
11 understanding that this document was an options  
12 document prepared by MNR?

13 MR. CARY: A. That's correct.

14 Q. It reflects the views of MNR at that  
15 time?

16 A. At that time.

17 Q. And what came out of that, as I  
18 understand it, is not a document like this with the  
19 covers changed called A Policy for Ontario, it was the  
20 9.1 and the 160,000 hectares?

21 A. And the what?

22 Q. That's the policy decision that was  
23 made in 1972?

24 A. It was the 9.1.

25 Q. Yes?



1                   A. That was the policy decision,  
2           9.1-million cunits of industrial fiber for the year  
3           2020.

4                   Q. And the 160 of artificial -- the  
5           quantity of artificial regen -- there is 130,000 acres  
6           naturally, plus --

7                   A. 390,000 acres -- or I think you are  
8           referring to the 158,000 hectares--

9                   Q. Yes?

10                  A. --that is the conversion of that  
11           artificial regeneration level. That was an  
12           Implementation Schedule.

13                  Q. So anything to do on the area side  
14           was the Implementation Schedule, the policy decision  
15           was simply 9.1 in 2020?

16                  A. That's correct.

17                  Q. Great. All right. So I would like  
18           to read to you, starting at the bottom of page 11, a  
19           statement where you say:

20                         "Conversely the production of waste and  
21                         wood residues in harvesting and  
22                         processing is a serious environmental  
23                         problem that can, however, be improved  
24                         Dramatically with more intensive use of  
25                         the forest resource."

1 Does that generally reflect the views of  
2 the Ministry of Natural Resources at this time?

3 A. That was written 18 years ago in the  
4 time of oil crisis and in the time of early  
5 environmental consciousness and they were very  
6 concerned then, as we are now, about the production of  
7 waste and wood residues in harvesting.

8 However, we have come a long way since  
9 then and we believe that there is much better  
10 utilization both in the forest and in the mill and I  
11 believe that this panel has spoken to some of those  
12 improvements.

13 So we always view this area with concern  
14 but we have come a long way since that time. So I  
15 don't share that exact sentiment now because we have  
16 made some progress in that regard.

17 Q. All right. Well, could we agree on  
18 this sentiment. Could we agree that the production of  
19 waste and wood residues in harvesting is a serious  
20 environmental concern?

21 A. At this point in time I would say  
22 that it is an environmental concern, yes. I don't know  
23 what they meant by serious then, but I believe that we  
24 have made improvements and we will continue to make  
25 improvements.

1 Q. Well, let's keep whittling it down  
2 until we can get something you agree with.

3 Would you agree that the production of  
4 waste and wood residues in harvesting is an  
5 environmental concern?

6 A. It is of concern, yes.

7 Q. Thank you. Can I take you to the  
8 bottom of page 12. There is a paragraph which reads:

9 "Increased production can be obtained by  
10 more intensive use of a smaller land area  
11 by using chemical fertilizers,  
12 pesticides, insecticides, fungicides,  
13 and biocides. The tremendous immediate  
14 benefits through increased yields and  
15 shortened rotations must be measured  
16 against the long-term global dispersion  
17 of compounds and biocides and the  
18 possibility of environmental  
19 degradation."

20 Would you agree with that statement  
21 today? Does MNR agree with that statement today?

22 A. Yes.

23 Q. All right. Going over to the next  
24 page -- just a minute. If you can go up one paragraph,  
25 I am sorry, on page 12 where it says:

1 "The size of land area devoted to forest  
2 and the intensity of management  
3 management can have varied effects upon  
4 the environment."

5 An increase in the land area due to less  
6 intensive management may require the drainage of  
7 wetlands with a resultant loss in water fowl and  
8 wildlife habitat and an increased flood hazard.

9 Does MNR agree with that statement today?

10 A. We do not conduct drainage of  
11 wetlands in the area of the undertaking on an  
12 operational basis. So I simply think that that remark  
13 now is -- that hasn't transpired.

14 If it was to transpire, so we are talking  
15 a hypothetical here, I am not a water fowl or wildlife  
16 habitat expert.

17 Q. All right.

18 A. Or I am not an expert in flooding or  
19 in the hazard of flooding.

20 Q. All right. Let me try it a different  
21 way then.

22 "The size of the land area devoted to  
23 forest and the intensity of management  
24 can have varied effects upon the  
25 environment. An increase in the land



1 area due to less intensive management may  
2 result in damage to wetlands with a  
3 resultant loss in water fowl and wildlife  
4 habitat and an increased flood hazard."

5 Now, my question is: Is that something that the MNR is  
6 concerned about today? Is it a concern?

7 A. The second sentence of that paragraph  
8 is not -- it is not of concern because it doesn't  
9 happen.

10 Q. I am not -- are you speaking of --  
11 are you telling me that an increase in the land area  
12 due to less intensive management will have no  
13 detrimental effect on wetlands?

14 A. It would depend where you did that.

15 Q. Exactly.

16 A. It may or may not, I suppose.

17 Q. All right. But I am asking you if an  
18 increase in the land area due to less intensive  
19 management which has the possibility of injuring  
20 wetlands remains a concern of the Ministry of Natural  
21 Resources today?

22 A. Again, I am afraid I have got to be  
23 site specific. If we were to drain operationally the  
24 wetlands--

25 Q. I didn't use the word drain.

1 A. Well, they do.

2 Q. I didn't ask you what they said  
3 there. I asked you whether today an increase in the  
4 land area due to less intensive management, which may  
5 injure wetlands, is a concern in the eyes -- would be a  
6 concern in the eyes of the Ministry of Natural  
7 Resources today?

8 A. Why would an increase in the land  
9 area injure wetlands necessarily? You have got to read  
10 the whole context of the sentence.

11 Q. Well, is it your evidence -- is it  
12 the evidence of MNR that less intensive management over  
13 a wide area is unassociated in any way with wetlands?  
14 Is that what you are saying?

15 A. No, I am not.

16 Q. Right. Now, what I am asking you is  
17 whether an increase in the land area due to less  
18 intensive management, which raised the possibility of  
19 damage to wetlands, would be of concern to the Ministry  
20 of Natural Resources today?

21 A. If that was the case, yes, we would  
22 be concerned.

23 Q. If there was the possibility of  
24 damage to wetlands, you would be concerned?

25 A. Yes.

1 Q. All right. If we could go over to  
2 page 13, the second sentence in the first paragraph:

3 "Care must be taken in road locations and  
4 cutting methods to minimize the  
5 fluctuation in water yields, the  
6 deterioration in water quality, and the  
7 increase in sedimentation."

8 Does the MNR agree with that statement  
9 today?

10 A. You will be relieved to hear from me  
11 that I agree partly with that statement.

12 Q. And when you are using you, you are  
13 talking like MNR agrees that that is an appropriate  
14 statement today?

15 A. Yes.

16 Q. And would you agree with the next --  
17 does MNR agree with the next statement:

18 "The selection of appropriate  
19 silvicultural systems and rapid  
20 regeneration of cut-overs will minimize  
21 these undesirable effects."

22 Do you agree with that statement?

23 A. In a general sense, yes.

24 Q. Well, do you agree or disagree? It  
25 is your statement.

1                   A. I wish there was a simple yes or no  
2           here. Natural regeneration --

3                   Q. So do I, Mr. Cary, so do I.

4                   A. Natural regeneration may occur as a  
5           result of fire and a result of harvest, and natural  
6           regeneration is sometimes on some sites very, very  
7           quick poplar, birch, for example.

8                   Q. So that if there is rapid  
9           regeneration--

10                  A. Yes.

11                  Q. --it will minimize these undesirable  
12           effects?

13                  A. Yes, whether that is natural or  
14           artificial, I agree.

15                  Q. All right. So that the selection of  
16           appropriate silvicultural systems and rapid  
17           regeneration of cut-overs will minimize these  
18           undesirable effects. You agree with that?

19                  A. It will minimize the effects on that  
20           specific part of the geography. Whether the road  
21           location -- you know, it could be somewhere else, we  
22           have got to take care of the road and we have got to  
23           take care of the harvest area as well.

24                  Q. All right.

25                  A. So, yes.



1 Q. I want to be absolutely sure that we  
2 now have agreement with this statement:

3 "The selection of appropriate  
4 silvicultural systems and rapid  
5 regeneration of cut-overs will minimize  
6 these undesirable effects."

7 Do you agree?

8 A. I am loathe to agree that the effects  
9 of placing a road in a wrong area, for example -- I am  
10 not quite sure whether you could tie--

11 Q. Oh, I see.

12 A. --erosion and sedimentation, the  
13 effects of that road, to rapid regeneration in the  
14 cut-over. There may or may not be a link.

15 Q. All right.

16 A. And I am having a problem tying the  
17 two systems together.

18 Q. I understand, I understand. So your  
19 answer is, just to be sure I understand you, is: Yes,  
20 except there are some other things happening out there  
21 which, if not done carefully, could also have  
22 undesirable effects.

23 A. Yes.

24 Q. And you have got to take care of them  
25 as well?

1 A. Yes, yes.

2 Q. Is that your answer?

3 A. Yes.

4 Q. Thank you. All right, Mr. Cary, in  
5 terms of the commercial timber objectives of the Forest  
6 Production Policy, that is the 9.1-million cunits. I  
7 am going to be terrible on all these units, so you are  
8 going to have to bear with me.

9 A. I am bad on seized as well.

10 Q. I want to put this proposition to you  
11 and ask if you agree. Would you agree with the  
12 proposition that it is not possible at this time to  
13 measure whether silviculture activities in Ontario will  
14 achieve the commercial timber objectives of the Forest  
15 Production Policy?

16 A. Whether silvicultural operations, you  
17 said?

18 Q. No. Let me read it to you:

19 "It is not possible at this time to  
20 measure whether silviculture activities  
21 in Ontario will achieve the commercial  
22 timber objectives of the Forest  
23 Production Policy."

24 A. At 2020? It is not possible to state  
25 exactly that there will be 9.1-million cunits of new

1 forest available at 2020 through our silvicultural  
2 activities, I agree with you.

3 Q. Well, Mr. Cary, that is an answer  
4 that if it turns out to be. If your view is that it is  
5 one cunit more or less, you have answered the question  
6 very specifically. I think I am asking it a little  
7 generally.

8 In a general sense, is it not possible --  
9 would you agree with me that it is not possible at this  
10 time to measure', that is, to produce comprehensive,  
11 complete analysis which allows you to measure whether  
12 silviculture activities in Ontario will achieve the  
13 commercial timber objectives of the Forest Production  
14 Policy?

15 And I think you have agreed with this  
16 proposition in your direct, Mr. Cary. You were very  
17 careful to draw the distinction between comparing the  
18 actual activities against the planned activities and,  
19 as I understood it from your evidence-in-chief and from  
20 Mr. Freidin's statement, that is because it is not  
21 possible at this time to measure whether silviculture  
22 activities in Ontario will achieve the commercial  
23 timber objectives of the Forest Production Policy.

24 I don't want to be tricky about this, but  
25 isn't that correct?

1 A. Yes.

2 Q. All right. So you would agree with  
3 my statement?

4 A. Yes. I said that.

5 Q. Now, broadly stated, as I understand  
6 it, the Policy and its implementation can sort of be  
7 summarized like this: That if you do 160,000 hectares  
8 a year of regeneration activities -- no, I should have  
9 taken out the if, I'm sorry.

10 The Policy is broadly stated like this,  
11 with its Implementation Policy: Go out and do 160,000  
12 hectares a year of regeneration activities to support a  
13 sustained production in 2020 of 9.1-million cunits of  
14 fiber net merchantable.

15 Is that a fair sort of summary?

16 A. There is a portion of that 9.1 that  
17 will come from natural, unassisted regeneration.

18 Q. Absolutely.

19 A. Yes.

20 Q. But in terms of relating the amount  
21 of regen activities that are required in order to  
22 support overall 9.1-million cunits of fiber net  
23 merchantable, that is the relationship?

24 A. That's correct.

25 Q. And it is fiber that the Policy



1 speaks to?

2 A. That's correct.

3 Q. Now, I think you have already agreed  
4 and set out in your direct that the set of assumptions  
5 used to develop that relationship between 160,000  
6 hectares of regeneration activities and 9.1, the  
7 assumptions used to develop that relationship are, to  
8 put it in a somewhat charitable light, not reliable in  
9 light of your better knowledge today.

10 Is that a fair statement?

11 A. Yes.

12 Q. And for that reason the comparison  
13 that you gave in your evidence was between the MNR  
14 developed Implementation Schedule on one hand and the  
15 actual numbers of hectares treated on the other hand;  
16 is that right?

17 A. That's correct.

18 Q. And would you agree with me that that  
19 comparison says nothing about what's happening to the  
20 trees out there in terms of actually reaching  
21 9.1-million cunits by 2020 or any other target?

22 A. I have told the Board repeatedly that  
23 that wasn't an indication of regeneration success.

24 Q. That wasn't my...

25 A. It was an indication of the level of

1 work.

2 Q. All right, but that wasn't my  
3 question, Mr. Cary. The question was: Would you agree  
4 that that comparison -- you agreed that was the  
5 comparison you did in your evidence.

6 A. Yes.

7 Q. Would you agree that that comparison  
8 says nothing about what happens -- what is actually  
9 happening to the trees out there in the forest--

10 A. That's correct.

11 Q. --in terms of achieving the  
12 9.1-million cunits by 2020 or any other target?

13 A. That's correct.

14 Q. So that it is fair for the Board to  
15 conclude, on the basis of your testimony, Mr. Cary,  
16 that you cannot now say what level of sustained yield  
17 the current level of regeneration will support in the  
18 future? Is that a fair conclusion to draw?

19 A. Could you repeat that question,  
20 please, Mr. Campbell?

21 Q. Yes. Is it fair for this Board to  
22 conclude, on the basis of your testimony - and I am  
23 limiting it very carefully to that because there may be  
24 a ton of other stuff which they may want to consider on  
25 this question - but, simply looking at it on the basis

1 of your testimony, you cannot now say, nor can this  
2 Board conclude, what level of sustained yield the  
3 current level of regeneration will support in the  
4 future?

5 A. From my testimony alone, you are  
6 correct.

7 Q. And, again, just to be sure we  
8 understand why that is, that is because the assumptions  
9 used in taking that 160,000 hectares of artificial  
10 regen and translating that into fiber and so on, those  
11 assumptions in light of today's knowledge are so poor?  
12 That is why the Board can't draw that conclusion?

13 A. Well, there is a shortfall too, so  
14 the Board would probably look at that as well.

15 Q. All right, for both of those reasons?

16 A. Yeah.

17 Q. Now, would you agree with me as well  
18 that a very significant question of concern in timber  
19 production is precisely that, what level of sustained  
20 yield will today's level of investment support in relat  
21 terms, not in comparison to an Implementation Schedule.  
22 Isn't that the significant question, that is the relat  
23 question?

24 A. That is a very good question, yes.

25 Q. And it is a question that this Board

1 ought to be concerned about?

2 A. Yes.

3 THE CHAIRMAN: I want to get this down  
4 exactly, Mr. Campbell. Would you repeat that question,  
5 please.

6 MR. CAMPBELL: Simply stated the question  
7 of concern is: What level of sustained yield will  
8 today's level of investment actually support.

9 MR. CARY: I would like to say, Mr.  
10 Campbell, the subject to sustained yield is squarely in  
11 Dr. Osborn's shop, not in my shop.

12 MR. CAMPBELL: Q. Mr. Cary, the  
13 conclusions that I want this Board to draw from your  
14 testimony is squarely within my shop, thank you.

15 Now, would you agree that your evidence,  
16 Mr. Cary, makes no attempt, and quite properly so, to  
17 answer that relat question of what level of sustained  
18 yield will today's level of investment support in relat  
19 terms?

20 MR. CARY: A. Yes.

21 Q. But one thing we do know is that the  
22 cut to date, since this policy went in, has been  
23 greater than the Implementation Schedule, that the  
24 amount of regeneration has been significantly less. Is  
25 that correct?



1                   A. The harvest area, yes, has been --  
2       you said than the level of regeneration. What do you  
3       mean by that, regeneration treatments?

4                   Q. No, maybe I better state it. You  
5       have got two sides to this thing, you cut and then you  
6       regenerate. The amount of cut has been higher than--

7                   A. Area of cut.

8                   Q. The area of cut--

9                   A. Okay.

10                  Q. --has been higher than was  
11       contemplated by the Implementation Schedule?

12                  A. No, I don't think so, not  
13       significantly.

14                  Q. Well, would 13 per cent surprise you?

15                  A. Is that what Mr. Dixon says?

16                  Q. That is what Mr. Dixon says. I think  
17       if you look at page 81 in the Panel 4 evidence you will  
18       see a table that indicates a figure of about 13 per  
19       cent.

20                  A. Yes, you are right, you are right,  
21       you are right.

22                  Q. So you would agree that the level of  
23       cut has been running higher than the Implementation  
24       Schedule and I just rounded it off and, for the  
25       purposes of my point, something like 10 per cent--

1 A. Yes.

2 Q. --Is a reasonable estimate of the  
3 extra cut?

4 A. Over those first eight years of the  
5 Implementation Schedule, yes.

6 Q. All right. Now, do you have any  
7 reason -- well, in fact, if you want to be very  
8 specific about it, then I am going to have to say, all  
9 right, it is 13 per cent over those years.

10 And I am just sort of, for illustrative  
11 purposes, would you agree that 10 per cent, since 1972  
12 to date, is a kind of reasonable ballpark number to use  
13 for the extra cut, and if it is 20 you better tell me.  
14 I am just sort of assuming it has kind of gone along  
15 the way Mr. Dixon has -- the way Mr. Dixon found.

16 A. I believe that trend -- yes, I think  
17 10 per cent would be a reasonable figure.

18 Q. All right. So that we --

19 A. I would have to go into statistics to  
20 tell you exactly.

21 Q. I know and what I am asking for, and  
22 if there is someone else on the panel thinks that the  
23 figure ought to be substantially higher or lower -- I  
24 am just looking at a general indication that we  
25 could -- that it would be fair for me to argue and the

1 Board to conclude that in general terms the cut since  
2 the 1972 Policy has been about 10 per cent higher than  
3 was contemplated by the Implementation Schedule  
4 associated with that Policy.

5 Is that fair as a general statement?

6 MR. GORDON: A. Mr. Cary, if I could be  
7 helpful. I think the proper answer there could only be  
8 obtained by actually going right now and doing that  
9 actual comparison, because it may or may not be, at  
10 this point in time, higher or lower.

11 Q. Are you telling me that this panel  
12 has no idea whether the cut since the Policy has been  
13 higher or lower than what was contemplated; is that  
14 your evidence, Mr. Gordon?

15 A. No, I did not say that.

16 Q. All right. I am just asking -- these  
17 are senior people from the Ministry. I am asking for  
18 what you see as a good general rule of thumb in making  
19 that statement, and I think Mr. Cary sees it as a good  
20 general rule of thumb.

21 MR. CARY: A. And I can refer you to  
22 Document No. 28 which gives the harvest cut versus  
23 regeneration treatments on Crown lands and as you will  
24 see --

25 Q. What page are we looking at?

1 A. Page 249 in the evidence.

2 Q. Mm-hmm.

3 A. And as you will see, although we have  
4 just picked three-year points, there has been -- and as  
5 there is fluctuation between those points, there has  
6 been, I would suggest, a gentle increase in the area of  
7 cut-over.

8 Q. All right. Well, if you or Mr.  
9 Armson as Chief Forester can give me what your sense is  
10 of what the total cut has been in comparison to the  
11 Implementation plan, I am perfectly happy with that. I  
12 am just asking for what your sense of it is now.

13 When Mr. Dixon looked at it in detail it  
14 was 13 per cent above, and I am just simply asking you:  
15 Is 10 per cent a good rule of thumb?

16 A. I would suggest the cut is increasing  
17 by perhaps 2 or 3 per cent a year, that sort of basis,  
18 yes.

19 Q. So I could use as a good rule of  
20 thumb that since 1972 I think we are 10 per cent higher  
21 on the cut side?

22 A. Yes.

23 Q. Thank you. And you would agree with  
24 me that we are substantially below - and I haven't done  
25 the calculations - but, we are substantially below on



1 the regeneration side and you have gone through that  
2 testimony and shown how the Implementation Schedule has  
3 even adjusted and where you are in relation to the  
4 ultimate target. Is that right?

5 A. That's correct.

6 Q. Now, I want to turn then next to the  
7 question of sustained yield and I want to concentrate,  
8 gentlemen, on the purposes of sustained yield.

9 I don't want to get, if you will excuse  
10 me, bogged down in all the little details about how it  
11 is achieved, I want to talk generally about what its  
12 purposes are.

13 And aiming basically at, I guess, just  
14 put it in really vernacular terms, that the purpose of  
15 sustained yield is to get the trees we want when we  
16 want them. Is that fair?

17 A. Me?

18 Q. Yes.

19 A. The trees we want -- that is a fair  
20 statement.

21 Q. All right. And it seems to me that  
22 there are some kind of simple tests that you want to  
23 look at in determining whether you are getting that,  
24 you are achieving that rather simple statement of  
25 purpose.

1                   And would you agree with me that one of  
2     the simple tests is: Are you achieving it on a  
3     predictable time frame. That is an important  
4     consideration when you are looking at that, sustained  
5     yield; is it not?

6                   A. Yes, that is what -- yes, that is one  
7     of the factors.

8                   Q. All right. And it is a relevant  
9     factor?

10                  A. Yes.

11                  Q. Are those trees coming back on a  
12     predictable time frame, that is a relevant question?

13                  A. Yes.

14                  Q. And the next sorted of simple test  
15     you might put is: Are you getting the predictable  
16     yield. That is a relevant question isn't it?

17                  A. Yes.

18                  Q. That is a question you want to know  
19     the answer to to determine whether you are meeting your  
20     purposes for sustained yield?

21                  A. Dr. Osborn, do you care to comment on  
22     that?

23                  Q. Well, I am delighted to have Dr.  
24     Osborn comment. It seems to me it is kind of a simple  
25     question.

1 A. Yes.

2 Q. Yes it is simple, or yes you agree?

3 A. I agree.

4 Q. Thank you. Would you also agree that  
5 in achieving -- in looking at whether you are achieving  
6 your purposes of sustained yield, you want to be sure  
7 that it is being achieved in a way that is economic,  
8 you are not just blowing your money out the door for no  
9 purpose?

10 A. There will always be cost  
11 considerations, yes.

12 Q. And you want to do it in an economic  
13 way?

14 A. Yes.

15 Q. And would you agree that you also  
16 want to take a look and be satisfied that your judgment  
17 about whether it is being done in an economic way  
18 achieves a wood supply of sustained yield that is  
19 economic for Mr. Tuer's clients to use?

20 A. That would be an objective --

21 Q. It may be economic in government  
22 terms--

23 A. Yes.

24 Q. --because they have a whole range of  
25 objectives. But it is also dreadfully important that

1 that wood of sustained yield be supplied to the  
2 industry at a price that let's them market their  
3 products effectively?

4 A. I agree.

5 Q. And part of achieving that, another  
6 simple test - it may be part of achieving all of them,  
7 but certainly achieving the last one I spoke of - part  
8 of achieving that is to have that sustained yield come  
9 back in a desirable species?

10 A. That's correct.

11 Q. And, again, it is dreadfully  
12 important that we all have a good understanding of what  
13 the industry sees as desirable species?

14 A. That's correct.

15 Q. Because they are the ones that are  
16 going to have to use these trees; is that correct?

17 A. Yes.

18 Q. All right. Now, having said all  
19 that, would you agree that the sustained yield  
20 objective must be tied to demand; that is, the  
21 principal purpose of sustained yield is to provide the  
22 material that industry needs to meet market demands for  
23 wood-based products?

24 A. Well, I would just like to refer you  
25 to the purpose of the undertaking: To provide a



1 continuous and predictable supply of wood for Ontario's  
2 forest products industry. That is the objective of the  
3 undertaking.

4 Q. All right. But I don't think that  
5 was my question. So what I am asking you is whether,  
6 in looking at sustained yield, that that question is  
7 inevitably tied to demand; that is, that surely the  
8 fundamental purpose of sustained yield is to provide  
9 the material that industry needs to meet market demands  
10 for wood-based products?

11 A. Not only on demand, there are other  
12 factors.

13 Q. All right. But in terms -- you know,  
14 do you agree with the statement though - put aside the  
15 other factors for the moment--

16 A. Yes.

17 Q. --Do you agree with the statement as?

18 A. Yes.

19 Q. And of course, there are -- you would  
20 agree that in implementing sustained yield, there has  
21 to be appropriate consideration given to environmental  
22 and other concerns?

23 A. That's correct, in implementing our  
24 operations, yes.

25 MR. CAMPBELL: Mr. Chairman, I am about

1 to move to another area that will take some time and I  
2 would sort of prefer not to break up. If you intend to  
3 take a lunch break, this would be a convenient time.

4 THE CHAIRMAN: Yes.

5 Again, being a Thursday, we would plan  
6 not to sit much beyond two o'clock, so I am suggesting  
7 one hour for lunch. We can have one more hour of your  
8 cross-examination after lunch.

9 MR. CAMPBELL: That is fine. Thank you,  
10 Mr. Chairman.

11 THE CHAIRMAN: Thank you.

12 ---Luncheon recess at 12:00 p.m.

13 ---Upon resuming at 1:10 p.m.

14 THE CHAIRMAN: Thank you. Be seated,  
15 please.

16 Mr. Campbell, Mrs. Koven forgot her  
17 hearing book, so we will hold down for a few moments.

18 MR. CAMPBELL: Always delighted to wait  
19 for Mrs. Koven.

20 ---Short recess.

21 THE CHAIRMAN: Thank you.

22 MR. CAMPBELL: Q. Dr. Osborn, I think my  
23 next couple of questions are for you and they relate to  
24 the OWOSFOP model.

25 Now, am I correct that, in my

1 understanding, that there are two versions; there is a  
2 management unit MAD level OWOSFOP and there is a policy  
3 level OWOSFOP; is that correct?

4 DR. OSBORN: A. Correct.

5 Q. Are there any others?

6 A. Not that I know of in Ontario.

7 Q. Well, that's -- so that there are no  
8 other versions of these models besides the two that  
9 have been referred to in these hearings used by MNR for  
10 Ontario?

11 A. Okay. That's really why I waited,  
12 because, yes, there is.

13 THE CHAIRMAN: Used by MNR in Ontario?

14 DR. OSBORN: Yes, sir. There is another  
15 computer program that's used at the management unit  
16 level, as far as I understand, as an interim, it  
17 certainly was used. It was used for maximum allowable  
18 depletion calculations and it is now being replaced  
19 with the availability of the maximum allowable  
20 depletion calculation model called OWOSFOP at the  
21 district level, and that is alluded to in the Timber  
22 Management Planning Manual.

23 MR. CAMPBELL: Q. All right. At page  
24 184 of the Timber Management Planning Manual, which is  
25 Exhibit 7...

1 DR. OSBORN: A. Just before you leave  
2 that, Mr. Campbell, just so the Board has an  
3 understanding. That model I just alluded has the same  
4 calculation procedure, the same algorithm, the same  
5 recipe, the same formula as that which is in the  
6 OWOSFOP model. So although there is this different  
7 piece of software, the calculation procedure within the  
8 model is the same.

9 Q. This is the new one at the -- did you  
10 say district level?

11 A. The Timber Management Planning Manual  
12 refers to two possible models. One is called OWOSFOP,  
13 one is not. You just asked me about that. The one  
14 that -- the OWOSFOP one, I just wanted to make sure the  
15 Board understood.

16 THE CHAIRMAN: I guess we are confused.  
17 I thought Mr. Campbell at the beginning asked if there  
18 were two only, and I thought the answer was yes, and  
19 then you seem to allude to a third called this interim  
20 software program which uses the same MAD calculation,  
21 the same recipe, the same everything as the other one.

22 DR. OSBORN: Yes, I apologize for the  
23 confusion, sir. There are only two versions of  
24 OWOSFOP, which is what the question was. Then I was  
25 asked: Is there any other computer program used in



1 this context in the Ministry and the answer is, yes,  
2 there is, there is a third. And that's what I was  
3 trying to be careful about. There are two OWOSFOP  
4 versions, yes.

5 MR. CAMPBELL: Q. And I understand this  
6 third one is used -- it is not a Head Office policy  
7 model; is that right?

8 DR. OSBORN: A. Correct.

9 Q. All right. Now, the two that are  
10 used at the local level is the OWOSFOP one, the one  
11 that is now going to be used at the local level -- it  
12 sounded to me like there is some transition from  
13 something to something. Are we transitioning to the  
14 OWOSFOP model?

15 A. Yes, the OWOSFOP model is becoming -  
16 I am not sure of the exact status, whether each and  
17 every district now has a copy - the OWOSFOP MAD  
18 calculation model is becoming the standard in every  
19 district office for the calculation of the maximum  
20 allowable depletion in the districts.

21 Q. All right. Now -- and that is the  
22 model, I take it, that's referred to at page 184 of  
23 the Timber Management Planning Manual; is that correct?

24 And the statement is made there:

25 "For forest management agreement areas,

1 OWOSFOP is the only--"

2 Emphasize only:

3 "--accepted official means of calculating  
4 the MAD."

5 And that is in relation to even-aged  
6 management forest; correct? I am looking at the  
7 Timber Management Planning Manual.

8 A. I know where you are looking and I am  
9 trying to find where there is a reference too to the  
10 fact that there is this second version available on an  
11 interim basisn, and that's really why I am hesitating.

12 The statement is true, on page 184 that's  
13 what it says. Somewhere - and I can't remember off the  
14 top of my head where - there is reference to this  
15 interim version that was available at the district  
16 level.

17 Q. But hasn't the Timber Management  
18 Planning Manual been applied; hasn't it been mandatory  
19 in its application since 1986?

20 A. Page 186, paragraph 6.2.3 of Exhibit  
21 7.

22 Q. Just a minute. Could you answer my  
23 question.

24 A. Well, if you read what is on page 184  
25 there's the answer to your question.

1 Q. I am sorry, 184?

2 A. Paragraph 6.2.3, halfway down the  
3 page, it states that:

4 "There are three ways that the maximum  
5 allowable depletion can be  
6 calculated for even-aged management.

7 Q. Yes. And then it goes on to say  
8 that:

9 "OWOSFOP is the only accepted official  
10 means of calculating the MAD."

11 Isn't that what it says underneath that?  
12 There is three methods, but here is the only official  
13 one?

14 A. No, it says: For forest management  
15 agreement areas OWOSFOP is.

16 Q. Fine, for forest management agreement  
17 areas, is it not correct that OWOSFOP is the only  
18 accepted official means of calculating the MAD?

19 A. Yes. I'm sorry, I misunderstood the  
20 front half of your question.

21 Q. And, again, just so we are absolutely  
22 sure that is the one that we are doing a transition to?

23 A. Correct.

24 Q. And that has been the case, as I  
25 understand it, since this Manual was issued in 1986?

1 A. Correct.

2 Q. So I take it you have a fairly large  
3 database then resulting from its application to new --  
4 to forest management agreement areas since this Manual  
5 was issued?

6 A. I am not sure what you mean by a  
7 fairly large database. The database that goes into  
8 this model is the forest resources inventory data.

9 Q. Fine. Excuse me, I will rephrase the  
10 question to make it for particular. How many forest  
11 management agreement areas have undergone the  
12 management planning process since this new Manual was  
13 issued in '86?

14 A. I do personally not know the exact  
15 number at this point in time.

16 Q. Mr. Cary, do you know?

17 MR. CARY: A. No, I do not.

18 Q. Mr. Armson, do you know?

19 MR. ARMSON: A. No, I do not the exact  
20 number.

21 Q. Mr. Gordon?

22 MR. GORDON: A. No.

23 THE CHAIRMAN: Can he have a ballpark  
24 number? Do you have any idea?

25 DR. OSBORN: I think something in the



1 order of three or four FMAs have been signed since --  
2 the number is in the order of three, or five. I think  
3 there is something in the order of 28, 29 FMAs in total  
4 in the province.

5 MR. CAMPBELL: Q. All right. So at  
6 least to that extent the model has been applied in  
7 those three or four FMAs; is that correct?

8 DR. OSBORN: A. The OWOSFOP version for  
9 maximum allowable depletion has been applied on FMAs  
10 since FMAs were first started in 1980.

11 MR. MARTEL: But not the approved  
12 model -- not the new one?

13 DR. OSBORN: Not the new what, sir?

14 MR. MARTEL: The new transitional one.

15 DR. OSBORN: Yes, the new transitional  
16 one. We come back to the evidence in Panel 3. The  
17 OWOSFOP model for the maximum allowable depletion  
18 calculation which was described in Panel 3 is the model  
19 that has been used since 1980 for the FMAs.

20 MR. CAMPBELL: Q. So the model has been  
21 applied for MAD calculations since 1980?

22 DR. OSBORN: A. For the FMAs and that  
23 was explained in Panel 3.

24 Q. And was it mandatory starting in 1980  
25 as it is here?

1                   A. Yes, and that was described in the  
2 Manual that was introduced in Panel 3.

3                   THE CHAIRMAN: You mean the previous  
4 manual?

5                   DR. OSBORN: The FMA Manual, sir, yes.

6                   MR. CAMPBELL: Q. All right. And how  
7 many forest management agreements have there been  
8 signed since 1980, obviously prepared under either one  
9 of the two models?

10                  DR. OSBORN: A. I think the order is in  
11 the order of 28, 29, 30.

12                  Q. So that for - and there are about a  
13 hundred altogether?

14                  A. A hundred what, sir?

15                  Q. Forest management units, Crown  
16 forest --

17                  A. We are switching terminology, Mr.  
18 Chairman, I am having some difficulty. Are we talking  
19 management units, are we talking forest management  
20 agreement areas, please?

21                  Q. I think we are talking forest  
22 management agreement areas.

23                  Look, could I make it clear. I may not  
24 use all your terminology perfectly. So if you think  
25 you understand my question - but this is a critical

1 point - fine, correct me. But where you think I know  
2 what I am asking, I really am not -- I don't think it  
3 is absolutely necessary that we have every term defined  
4 down to the degree to answer a lot of my questions.

5 If I am out of line saying that, Mr.  
6 Chairman, I apologize

7  
8 THE CHAIRMAN: All right. It has been a  
9 long day. Why don't we continue and if there is a  
10 correction needed, Dr. Osborn, though that is critical,  
11 we want to know about it. We want the evidence down  
12 correctly.

13 DR. OSBORN: Sir, in that case there was  
14 because we suddenly switched from the FMAs of which  
15 there is 29, 30 to 100 management units and there is  
16 quite a distinct difference and I was concerned.

17 MR. CAMPBELL: Q. Well, how many  
18 management units does this Ministry anticipate becoming  
19 subject to FMAs?

20 DR. OSBORN: A. That I do not know, sir.

21 MR. ARMSON: If I might, could I -- it  
22 has been anticipated that something of the order of  
23 between 30 to 35 forest management agreements would be  
24 executed. We are now -- I am not sure whether it is 29  
25 or 30 right now. So in answer to your question, Mr.  
Campbell, it could be three or four more. That was the

1 anticipated number as of some years ago.

2 MR. MARTEL: Could I ask then, how many  
3 unit does that cover? Let's say you have the 29 or 30  
4 forest management agreements, but there are 100  
5 units -- 99 units, I checked it at noon. There are 99  
6 forest management units in this undertaking.

7 Now, what percentage of the undertaking  
8 is covered by forest management agreements and maybe  
9 that's the way of coming at it.

10 MR. CARY: Mr. Martel, earlier in  
11 response to Mr. Tuer's question I had a look at the  
12 area of FMAs, the whole area of the FMAs compared to  
13 that of Crown land in the area of the undertaking and  
14 from my recollection about 45 per cent of the area of  
15 the undertaking is covered by FMAs.

16 Okay, 45 per cent of the area of the  
17 undertaking. And I don't know how many management  
18 units. Some FMAs encompass two management units, so  
19 maybe -- I think two is the most. It might be three in  
20 one case. So that's the sort of work.

21 MR. CAMPBELL: Mr. Chairman, I caused  
22 some confusion and I should have gone back to my chart  
23 in Panel 1 that we introduced in cross-examination  
24 because I had it all figured out then and it has  
25 obviously fallen out of my head.



1                   Now -- and I apologize, I have caused  
2                   some confusion here.

3                   Q. I am interested in the application of  
4                   this model; forest management agreement units, Crown  
5                   management units, and company management units. Now,  
6                   does that cover all the management units?

7                   DR. OSBORN: A. Yes, sir.

8                   Q. All right. Thank you.

9                   MR. CAMPBELL: Sorry, Mr. Chairman.

10                  Q. Now, how many -- oh well, let me back  
11                  right up.

12                  The OWOSFOP model in one form or another  
13                  as -- well, I am sorry, I am confused again. Back in  
14                  1980 you had a model and that's an OWOSFOP model as  
15                  well for calculating MAD?

16                  DR. OSBORN: A. Yes.

17                  Q. And is that the same model that we  
18                  are dealing with using more and more now, or there is a  
19                  later version of it?

20                  A. Yes. Simplified, yes, the same model  
21                  of 1980 for all intents and purposes being taken  
22                  through time and becoming the defacto standard on all  
23                  the hundred units that Mr. Campbell is alluding to.

24                  Q. All right. So its application since  
25                  1980 has been mandatory on a hundred units?

1 THE CHAIRMAN: On 28 or 29.

2 MR. CAMPBELL: Q. All right. So that  
3 the planning manual that you were talking about where  
4 it was also specified, only related to FMAs?

5 DR. OSBORN: A. Yes, sir.

6 Q. Okay. Now, starting in '86 the  
7 manual -- does the manual relate to FMA, Crown  
8 management units and company management units?

9 A. As far as I understand, yes.

10 Q. All right. So it is that the base is  
11 expanding now where we have some manual that tells you  
12 how to do the planning on the units?

13 A. Correct.

14 Q. All right. Now, looking at the  
15 period 80-86 however, there is about 30 units on which  
16 the model has been applied?

17 A. Mr. Chairman, no, because the FMAs  
18 have been signed from 1980 through time and the number  
19 has increased from five in 1980 to another three in  
20 1981. So this number of 30 so far has come into play  
21 over that period of time.

22 So if we took a particular year, 1983,  
23 the model would be applied to the number of FMAs signed  
24 in 1983 which isn't 30.

25 Q. All right. How many units has the

1 OWOSFOP MAD model been used on to date?

2 A. All the FMAs which is approximately  
3 30 at this point in time and--

4 Q. And, yes?

5 A. --those Crown management units or  
6 other management units that have applied the Manual of  
7 Exhibit 7 before writing a management plan using this  
8 Manual.

9 Q. Of which there are how many?

10 A. That I do not know. Of how many  
11 management units have used this manual since its  
12 initiation?

13 Q. Yes, that's the question.

14 A. That I don't know.

15 Q. Nobody knows.

16 MR. FREIDIN: The information is it is  
17 approximately 15 to date.

18 MR. CAMPBELL: All right.

19 MR. FREIDIN: 15 -- no...

20 ---Discussion off the record

21 THE CHAIRMAN: Dr. Osborn, just to  
22 clarify something else. When you talk about 28 or 30  
23 forest management agreement areas, they may in fact  
24 cover more management units because a forest management  
25 agreement area may cover more than one forest

1 management unit; is that correct?

2 DR. OSBORN: The simple answer, sir, is  
3 no, an FMA is a management unit. I think that's the  
4 easiest answer at this time in the afternoon.

5 MR. CAMPBELL: Mr. Chairman, a kindred  
6 spirit. Thank you.

7 MR. FREIDIN: Can I try something?

8 MR. MARTEL: Please.

9 MR. FREIDIN: When an FMA agreement is  
10 signed, Dr. Osborn -- Mr. Armson, an area of land is  
11 identified within some boundaries and that becomes the  
12 forest management agreement area; is that correct?

13 MR. ARMSON: A. Yes, and that is then a  
14 unit.

15 MR. FREIDIN: And that area is called a  
16 forest management agreement management unit?

17 MR. ARMSON: Correct.

18 MR. FREIDIN: If you take those areas and  
19 you add to it the company management units and the  
20 Crown management units you now have approximately a  
21 hundred management units--

22 MR. ARMSON: Correct.

23 MR. FREIDIN: --making up the area of  
24 undertaking.

25 MR. ARMSON: That is correct.



1                   MR. FREIDIN: And when you say that a  
2 forest management agreement area is created -- pardon  
3 me, when you say that a forest management agreement  
4 area may be composed of two or three management units,  
5 do I understand that that means that when you went out  
6 there and you are trying to decide where the boundaries  
7 of the forest management agreement would be, you drew  
8 the area and it encompassed three former management  
9 units?

10                  MR. ARMSON: That is correct.

11                  MR. FREIDIN: And it was composed,  
12 therefore, the FMA agreement was composed of three  
13 former management units, but the moment the forest  
14 management agreement management unit comes into  
15 existence the three former management units cease to  
16 exist?

17                  MR. ARMSON: That is correct.

18                  MR. FREIDIN: I don't know whether  
19 confused--

20                  THE CHAIRMAN: I say we all give a hand  
21 to Mr. Freidin.

22                  MR. MARTEL: I have a question now.  
23 Could you tell me, as these things develop, and I am  
24 trying to understand this, we started out with using  
25 OWOSFOP on the forest management agreements, per se.

1                   As the other types of units when into  
2           planning, what models were used there; No. 1 OWOSFOP;  
3           No. 2, OWOSFOP; or the one mentioned here in page 184  
4           Item 2?

5                   DR. OSBORN: It is unfortunate this is  
6           all in the way of play on semantics. The formula for  
7           the allowable cut, the formula for MAD, area over  
8           rotation, has been used by the Crown since the 50s the,  
9           calculation has been done by hand, okay.

10                   In 1980 we happened to computerize it and  
11           apply it to the FMAs. The same basic calculation, the  
12           facts done on the computer and the facts done by hand  
13           is irrelevant and the fact that one has a name and the  
14           other one doesn't is irrelevant.

15                   So the same basic calculation, Mr.  
16           Martel, the same basic maximum allowable depletion  
17           calculation has been done on the unit, whether on the  
18           computer, whether by hand, whether FMAs, whether  
19           non-FMAs. So that same basic calculation has been done  
20           all the way through time.

21                   It so happens that we happen to  
22           computerize it and apply it on the FMAs. In 1980 as  
23           the FMAs got signed they were asked -- told the Manual  
24           says, thou shalt use the computerized version.

25                   To answer your question, therefore, Crown

1 management units, we're doing the calculation by hand,  
2 but in the 1980s micro-computers came about and some of  
3 the people smartened up and could do that hand  
4 calculation by machine. The same calculation, just the  
5 machine does it quicker, and usually with a little bit  
6 more carefully.

7 The Crown units were therefore still  
8 doing the same calculation. 1986 comes along and the  
9 Manual says thou shalt use one of three, including the  
10 hand calculation which is mentioned in here, if you  
11 don't have a machine to do it by machine. Gradually we  
12 have applied and put machines in every district such  
13 that doing it on the machine, the same calculation  
14 procedure, is now possible in every district for every  
15 management unit on the machine.

16 It is still the same basic area over  
17 volume calculation that has been done since the 50s.

18 THE CHAIRMAN: Do you want to still  
19 cross-examine?

20 MR. CAMPBELL: I would like to go back to  
21 lunch.

22 MR. FREIDIN: If you are under oath, then  
23 say something.

24 MR. CAMPBELL: Q. All right. Since  
25 1980 -- just a minute, just a minute, just a minute.

1 How many Crown management units and company management  
2 units have applied the MAD OWOSFOP model?

3 DR. OSBORN: A. As I understood it from  
4 the discussion that took place in the background, the  
5 number was approximately -- there is 15 units that have  
6 used this Manual, as I understood the dialogue that  
7 went on.

8 Q. All right.

9 A. And the FMAs to date.

10 THE CHAIRMAN: 30, 45.

11 MR. CAMPBELL: Q. I thought it was 30  
12 plus 15, or I thought I had an answer they had been  
13 used on 30 FMAs.

14 THE CHAIRMAN: Plus another 15.

15 MR. CAMPBELL: Can we just leave this.  
16 Can we do this, Mr. Chairman, can we just leave this.  
17 Rather than waste a lot of hearing time, could we just  
18 leave this, I will speak with my friend Mr. Freidin  
19 with Dr. Osborn at the end of the day, we'll just put  
20 the numbers down that I need and we'll just put them in  
21 on Wednesday and I think we'll save a lot of time.

22 THE CHAIRMAN: Okay.

23 MR. CAMPBELL: Thank you.

24 Q. I want to talk about the policy level  
25 OWOSFOP model, okay. Move up.



1                   As I understand it, that model being a  
2   simulation model, it is a useful tool for running  
3   different scenarios; would you agree?

4                   DR. OSBORN:  A.  Yes.

5                   Q.  And so it can give you valuable  
6   insights into the directional changes in results, if  
7   you change inputs, and it can give you some insight  
8   into the relative size of change when different inputs  
9   are run and then compared one against the other; is  
10  that fair so far?

11                  A.  Correct.

12                  Q.  All right.  And in fact in a policy  
13  sense, in a policy development sense, that's a very  
14  valuable tool; it allows you to compare, if I change  
15  this, I am going to get a change probably in this  
16  direction and some indication of the magnitude on the  
17  outputs?

18                  A.  I agree.

19                  Q.  And I would ask you then to agree as  
20  well whether you agree with the statement that without  
21  some sort of statistically valid measure of uncertainty  
22  you can't rely on the absolute values of the output  
23  figures as a prediction of reality because you have no  
24  way of knowing how certain or uncertain that absolute  
25  value is?

1                   Could you agree with that proposition

2                   THE CHAIRMAN: If you say yes, it will  
3                   save about four hours' of cross-examination.

4                   DR. OSBORN: Yes.

5                   MR. FREIDIN: I missed the point.

6                   MR. CAMPBELL: I am so stunned that if  
7                   there is anything -- I will tell you what I am going to  
8                   conclude from that yes. I am going to conclude that  
9                   this Board, and I would use that and I would argue that  
10                  this Board should conclude on the basis of this answer  
11                  that the OWOSFOP policy runs can't be relied on by the  
12                  Board as a prediction of an absolute level of output if  
13                  you make changes to the inputs.

14                  DR. OSBORN: No more they could if it was  
15                  using a probablistic version of simulation. Both  
16                  methods, and there are two forms of simulation model  
17                  that is why I didn't elaborate, two basic forms of  
18                  simulation models.

19                  Both forms of models, in terms of  
20                  simulating futures both of them will go on record over  
21                  and over again that there is no guarantees, no definite  
22                  numbers of what tomorrow will be in either form of  
23                  those two versions of simulation.

24                  MR. CAMPBELL: Q. There never will be in  
25                  any model. But is it not correct that not having any

1 level of uncertainty statistically built into the model  
2 in terms of its inputs algorithms and outputs, that the  
3 Board cannot take and an OWOSFOP model and say: The  
4 best prediction we have of what happens if "x" "y" and  
5 'z" is the OWOSFOP output because in making that  
6 statement it has absolutely no way to judge the  
7 uncertainty of that answer.

8 Isn't that fair?

9 DR. OSBORN: A. No, it is not fair and  
10 the answer, Mr. Chairman, would be that the Board has  
11 to weigh the results that they have been presented with  
12 and the description of the inputs and the assumptions  
13 in the model that they have been presented with with  
14 the credibility of the people presenting those data and  
15 those analyses.

16 Q. Dr. Osborn, with respect, this is not  
17 a credibility issue in any respect. This surely is a  
18 question of the degree of uncertainty that is carried  
19 through the model into the outputs; isn't that correct?

20 A. No, this is not the place to debate  
21 such an issue.

22 Q. Well, Mr. Gordon has been  
23 scrupulously fair in pointing out uncertainties on each  
24 and every input. You will agree with that proposition?

25 A. Yes and I went at great lengths to

1 describe the assumptions inherent in the model.

2 Q. And are you suggesting that given  
3 those wide ranges of uncertainties associated with the  
4 inputs that there isn't also an enormous range of  
5 uncertainty associated with the outputs?

6 A. No, I am not going to dispute that in  
7 the slightest.

8 Q. And the Board has absolutely no way  
9 of telling how wide that range of uncertainty is; is  
10 that not correct?

11 A. That's fair.

12 Q. How, in that circumstance, can you  
13 then argue that the Board should rely on that model as  
14 a predictive tool? It makes no sense to me. If you  
15 are sitting there waiting for a question, it was a  
16 question.

17 A. Idealistically, the model would have  
18 probabilities built into it. I don't disagree with  
19 that in the slightest. We would have liked to have  
20 used a simulation model that had probabilities built  
21 in, sticastic modelling.

22 At this point in time, as has been  
23 explained, particularly with in terms of predicting the  
24 growth of the new forest, there are no data to assess  
25 the probabilities of whether the plantation will grow



1 at a certain level, and there is no probability of  
2 whether that plantation will grow faster or slower.

3 And so it is very true, we would like to  
4 have run, I personally would have liked to run such a  
5 model with probabilities built in, very much so and it  
6 will certainly add to the credibility of the model.

7 Unfortunately at this point in time there  
8 are no such probabilities, and so the model was run as  
9 a deterministic simulation.

10 THE CHAIRMAN: So what is its  
11 credibility?

12 DR. OSBORN: I understand your question,  
13 sir. In my estimation it is as good at this point in  
14 time as I as a professional can present. How the Board  
15 translates that, I am in no position to even hazard an  
16 opinion.

17 Where I sit and run those analyses and  
18 talk to senior management within MNR, I will describe  
19 what I have done, what's gone into it and ask them to  
20 understand what's gone into it and if they have numbers  
21 that they think are better than that, those numbers  
22 should be run to see if it changes the situation.

23 So have a degree of probabilistics in  
24 terms of peoples' best estimates of tomorrow. Now, at  
25 this point in time that is the level of expertise in

1       that sort of simulation for estimating what 60, 70, 80  
2       years from today might look like.

3                   THE CHAIRMAN: But what, in your opinion,  
4       weight should the Board place upon it?

5                   MR. CAMPBELL: Mr. Chairman, before the  
6       witness answers that question. I don't want to get  
7       into an argument, and unnecessary argument. It is not  
8       my position that the model is useless for policy  
9       analysis, quite the reverse, and I think I made that  
10      clear.

11                   I think it is important to differentiate  
12      between the different purposes that the model can  
13      properly be used for, and my questions are aimed at  
14      exploring whether it can probably be used as a reliable  
15      prediction.

16                   So I think as long as it is understood we  
17      are only...

18                   THE CHAIRMAN: Not policy development,  
19      but predictive--

20                   MR. CAMPBELL: Capability.

21                   THE CHAIRMAN: --capability.

22                   MR. CAMPBELL: Exactly the question you  
23      raised two days ago, Mr. Chairman.

24                   THE CHAIRMAN: And I am asking the  
25      further question: What weight, in your view, should

1 the Board place upon that model in terms of its  
2 predictability?

3 DR. OSBORN: Of absolute numbers, sir.

4 THE CHAIRMAN: Of absolute numbers.

5 DR. OSBORN: Absolute numbers, I reckon  
6 relatively little. It is not the absolute number that  
7 was the key concern in this.

8 With one comment, and the comment is  
9 that: For example, in Scenario No. 2, running the  
10 model with all its inherent problems indicates a  
11 potential problem, potential problem "x" years down the  
12 road.

13 Now, the absolute timing of such a  
14 problem and the absolute magnitude of such a potential  
15 problem, the actual hard number of 60 years from today  
16 we have some nightmare. The absolute number is of  
17 little concern, but the inference that there is a  
18 potential problem under those assumptions is key, so  
19 although the deterministic hard number 60 years - I  
20 personally don't hang an awful lot of weight on,  
21 whether it is 59, 58, 57, 65.

22 It does indicate that maybe something  
23 should be done today and what sort of things may be  
24 done today, considered today to alleviate that  
25 potential problem as indicated in the model.

1 MR. CAMPBELL: Q. All right. So that  
2 you would agree that relatively little weight should be  
3 given to the model for predictive purposes?

4 DR. OSBORN: A. As a hard number of what  
5 will the forest look like in 2060, 2070, 2080.

6 Q. Do you agree that the model should be  
7 given relatively little weight for predictive purposes?

8 A. In the circumstances described, yes.  
9 There is not a yes or a no --

10 Q. What are you talking when you say in  
11 the circumstances described? We have been here for  
12 eight days talking about circumstances. Could I have  
13 an answer to my question, please?

14 Is it not correct that relatively little  
15 weight should be given to the model results for  
16 predictive purposes?

17 A. In a yes/no answer, the answer is  
18 little weight.

19 MR. CAMPBELL: Mr. Chairman, I am going  
20 to ask this question until the --

21 THE CHAIRMAN: Just a moment, Mr.  
22 Campbell. In fairness to the witness, he indicated, at  
23 least I understood, that he indicated that the Board  
24 should place little weight, if any, on its predictive  
25 capability to predict absolute numbers.



1                   But, conversely, the model has some value  
2                   and some weight should be placed upon it for its  
3                   ability to predict some major potential problems at  
4                   some point off in the future, not in absolute numbers,  
5                   but by way of identifying a major problem in the  
6                   future.

7                   And, in that sense, Mr. Campbell, it may  
8                   have some predictive value and some weight should be  
9                   given to it in that circumstance.

10                  MR. CAMPBELL: But that circumstance, Mr.  
11                  Chairman, I submit to you, is exactly within what I  
12                  have described very carefully as it is used for policy  
13                  analysis.

14                  If you take this set of assumptions and  
15                  you get changes that swing you in this way and you  
16                  compare that against some other set of assumptions and  
17                  you see: Holy smokes, I might have a problem there,  
18                  that is really useful for policy analysis purposes.

19                  THE PRESIDING MEMBER: Well, that may be  
20                  another way of describing it.

21                  MR. CAMPBELL: Q. Now, accepting my  
22                  description to identify these kinds of problems,  
23                  comparing scenarios based on different assumptions,  
24                  identifying problems, you agree that it is useful for  
25                  that purpose?

1 DR. OSBORN: A. Yes.

2 Q. But if this Board wants to come to a  
3 judgment on wood supply, a prediction, a forecast of  
4 wood supply in this province, then do you agree with me  
5 that it should be given relatively little weight?

6 A. Yes.

7 Q. Thank you.

8 MR. FREIDIN: Mr. Chairman, I am not too  
9 sure whether my friend can do anything with it now, but  
10 he requested that he be provided with a manual for the  
11 use of the OWOSFOP MAD purpose, and I just wanted to  
12 give it to him now, and probably he will use it next  
13 week. (handed)

14 MR. CAMPBELL: Thank you, Mr. Chairman.  
15 It is unrelated to the policy discussion, but I am  
16 interested in the number of units on which the model  
17 has been the only accepted official means of  
18 calculating the MAD as pointed out in the Timber  
19 Management Planning Manual and apparently in the  
20 previous manual.

21 And I will be quite frank, my purpose in  
22 inquiring into that as to whether -- is to take a look  
23 at the material that was required to be gathered in the  
24 use of that model and determine whether there isn't a  
25 sufficiently large sample of units, of whatever kind,

1 that have used that model, so as to provide a  
2 convenient method of assembling a more up-to-date  
3 database.

4 And I will discuss that with my friend  
5 after and that is really why I wanted the manual.

6 THE CHAIRMAN: Very well.

7 MR. CAMPBELL: Q. Now, Dr. Osborn, I  
8 will try and pick a point that I can fit in in seven  
9 minutes.

10 The other day, in response to a question  
11 from Mr. Castrilli, you and I think everyone else on  
12 the panel were very emphatic in saying that  
13 silviculture rules were mandatory. Do you remember  
14 that?

15 Do any of the -- am I in a different  
16 room?

17 MR. CARY: A. I believe that I mentioned  
18 that the application of some of the guidelines were  
19 mandatory, some silvicultural guidelines were  
20 mandatory. Is that what you are referring to?

21 Q. Yes, although I thought you were very  
22 careful about saying the application of silvicultural  
23 rules were mandatory.

24 A. Silvicultural ground rules?

25 Q. Right.

1                   A. Okay. I think Mr. Armson mentioned  
2                   that.

3                   MR. ARMSON: A. Yes. The  
4                   silvicultural -- again, we come back to forest  
5                   management agreement areas or units.

6                   In the agreement, in each agreement, as  
7                   part of that agreement - and it is part of the  
8                   agreement as a schedule - there is a schedule titled  
9                   Ground Rules.

10                  Within the ground rules there is  
11                  contained, usually in tabular form, the silvicultural  
12                  prescriptions, and these form an obligation to  
13                  undertake the activities of harvesting, regeneration  
14                  and so on according to those ground rules.

15                  Q. All right. So what you are talking  
16                  about is silvicultural prescriptions are mandatory?

17                  A. They are, yes. They are part of each  
18                  and every one of those agreements.

19                  Q. And they are mandatory?

20                  A. Yes, they are part of the agreement  
21                  to be carried out. There may be priorities or orders  
22                  of activities set in there, but they are part of it.

23                  Q. And those rules -- or those  
24                  prescriptions, as I understand it, occur -- they are  
25                  developed at the end of a negotiation process; that is,



1       there is a whole bunch of negotiations that go on and  
2       then the prescriptions are finalized and put into  
3       agreements; is that correct?

4                   A.   I don't -- since I am not directly  
5       involved in the -- I do not believe that the ground  
6       rules are negotiated at the end.   I think --

7                   Q.   Well, no, I assume they are  
8       negotiated on the way through the formation of these  
9       agreements.

10                  A.   They are developed, I would suggest,  
11       rather than negotiated.

12                  Q.   Fine.   They are developed going  
13       through the process of putting together the agreement?

14                  A.   That's correct.

15                  Q.   And then once they are in the  
16       agreement they are mandatory?

17                  A.   That is correct.

18                  Q.   All right.   Now, am I not correct --  
19       what is the difference between silvicultural ground  
20       rules and silvicultural prescriptions?

21                  A.   I believe, Mr. Chairman, there is  
22       some confusion.   In the agreements, the silvicultural  
23       prescriptions are a part of the schedule called the  
24       ground rules and the ground rules speak to other  
25       matters in addition to the silvicultural prescriptions,

1 other obligations or other elements.

2 Q. All right. So both -- is it fair to  
3 say that the silvicultural guidelines are used in the  
4 development of the rules of which the prescriptions are  
5 a sub-set?

6 A. I would expect that they are, yes.  
7 The silvicultural guidelines are a separate set of  
8 documents.

9 Q. Yes, and they are...?

10 A. The foresters would use those, yes,  
11 in developing the prescriptions.

12 Q. All right. So the silvicultural  
13 guidelines are used -- are supposed to be used, are  
14 they not, in developing the silvicultural ground rules  
15 of which the prescriptions are a part?

16 A. And the guidelines -- and this is I  
17 think -- I believe spelled out in the Environmental  
18 Assessment Document, I don't know at which page, are in  
19 fact -- their use is mandatory of the guidelines.

20 Q. All right. Now, that's right, that  
21 is my understanding. The use of the guidelines is  
22 mandatory; is that not correct?

23 A. That is what I believe the words are.

24 Q. All right. Am I not also correct  
25 that there is -- although their use may be mandatory,

1       there is not one guideline in those silvicultural  
2       guidelines that is mandatory?

3                   A. But the guidelines themselves -- the  
4       document itself consists of a large amount of  
5       information concerning the species, in relation to the  
6       working group guidelines, basically a summation in  
7       there of the totality of experience that has been  
8       gained in Ontario. I am a little...

9                   Q. All right. Let me make it simpler  
10      and maybe I can understand it. I am a forester, I am  
11      in charge of a -- my responsibility is to apply the  
12      guidelines; is that correct?

13                  A. That is correct.

14                  Q. To use the guidelines?

15                  A. To use the guidelines.

16                  Q. To use the guidelines.

17                  A. In the process of developing the  
18      silvicultural prescriptions.

19                  Q. All right. I go to the shelf, I get  
20      down my guidelines.

21                  A. Correct.

22                  Q. I open them up and I read them from  
23      cover to cover. Is there anything in what I read that  
24      says: It is mandatory here for you to do this in these  
25      circumstances?

1                   A. The reason I am pausing, we are in  
2                   the process of developing - and I believe we have an  
3                   obligation to produce - new silvicultural guidelines.  
4                   The spruce ones are being -- the one for the spruce  
5                   working group is being printed, I am thinking back, the  
6                   poplar one is in its final editing, the red and white  
7                   pine is in draft form.

8                   So to answer your question with a  
9                   categorical yes or no, I would have difficulty. For  
10                  the most part the guidelines are just that, there is  
11                  no -- for the most part, no attempt to say thou shalt  
12                  or thou shalt not. There may be one or two instances,  
13                  but I can't honestly recall.

14                  Q. Are any of the other panel members  
15                  familiar with the silvicultural guidelines?

16                  Mr. Gordon, you must have applied them in  
17                  the Big Pik Unit.

18                  MR. GORDON: A. I am not familiar with  
19                  the updated versions of the guidelines.

20                  Q. Well, gentlemen -- Mr. Armson, can I  
21                  take your answer this way: That if I, as a forester,  
22                  go to the shelf and pull out those guidelines which I  
23                  must use, that in the use of them there is virtually  
24                  nothing that is mandatory and that what they are  
25                  intended to do is to provide to the forester a guide in



1 exercising his or her discretion?

2 MR. ARMSON: A. Yes, that is why we have  
3 professional foresters there to exercise their  
4 experience, knowledge and judgment in undertaking and  
5 implementing activities which are consistent with the  
6 guidelines and the silvicultur -- knowledge in  
7 silvicultural characteristics.

8 Q. All right. But when we talk about  
9 silvicultural guides being mandatory, it is mandatory  
10 only in the sense that you have to take them into  
11 account, there is nothing mandatory in those guidelines  
12 that says: In these circumstances you must do this?

13 A. That is correct. The statement in  
14 the document is very clear and, if I might, Mr.  
15 Chairman, reference to these guides; that is, the  
16 silvicultural guides, in the development of management  
17 prescriptions during the timber management planning  
18 process is mandatory.

19 The variety of conditions, the difference  
20 in objectives and management objectives and conditions,  
21 I think are key elements and must be taken into account  
22 and cannot be taken out and into account in a general  
23 guideline.

24 Q. I am not suggesting anything  
25 different. I agree with you that the forester has got

1 to exercise his professional judgment. The only point  
2 I am asking you to agree with is that in the  
3 silvicultural guidelines that it is left to his  
4 discretion.

5 A. As a professional.

6 Q. As a professional. But there is  
7 nothing mandatory that says: If you are wanting to cut  
8 down trees in circumstance "x", you must do so in a  
9 certain way.

10 A. Well, as I indicated before, there  
11 may in fact in one or more of those guides be some such  
12 statement, but I can't recollect them at this time.

13 THE CHAIRMAN: Well, virtually they are  
14 absent? Virtually it is left to the discretion of the  
15 forester?

16 MR. ARMSON: Correct.

17 MR. CAMPBELL: Q. Do you agree with this  
18 purpose, that it is not the purpose of the  
19 silvicultural guides to specify mandatory practices?

20 MR. ARMSON: A. That is correct.

21 Q. Thank you.

22 MR. CAMPBELL: I was two minutes over,  
23 Mr. Chairman. Thank you very much. This a convenient  
24 spot, Mr. Chairman, for the two o'clock adjournment.

25 THE CHAIRMAN: Okay.

1                   Very well, ladies and gentlemen, we will  
2 adjourn for this week. As we mentioned earlier, we are  
3 going to commence on Wednesday at 9:30 a.m.

4                   Thank you.

5                   MR. FREIDIN: Would it be the intention  
6 of the Board, if we complete Panel 4 before the end of  
7 the day, that we want to embark on Panel 5 on  
8 Wednesday?

9                   I would like to get a little feel of it,  
10 how much time my friends think they will be. It may  
11 have some effect on what I tell the people on Panel 5  
12 about members being here.

13                  MR. CAMPBELL: Is Mr. Cary's evidence  
14 going to come in on Wednesday; is that...

15                  MR. CARY: It is our intent, Mr.  
16 Campbell, to provide -- to try our best to provide that  
17 evidence on Wednesday.

18                  MR. CAMPBELL: Well, Mr. Chairman, under  
19 those circumstances and looking at what I have left,  
20 Mr. Freidin has re-direct, I certainly would have no  
21 objection to allowing Mr. Freidin to operate on the  
22 assumption that he needn't be prepared to call his  
23 Panel 5 before Thursday. It seems senseless. We may  
24 lose an hour, but if it saves inconvenience, I think it  
25 is worth it.

1                   There is one other thing I would like to  
2           address, Mr. Chairman, just before we leave and I am  
3           sorry, I meant to do this when we started.

4                   Obviously, at the beginning of my  
5           cross-examination and asking the witnesses whether they  
6           adopted Mr. Freidin's statement, this became a little  
7           more complicated than I had intended. I don't want the  
8           witnesses to feel that they have to go away and nitpick  
9           away at this thing and, in fact, right now I am not  
10          particularly concerned whether they even do the task.

11                   It occurred to me when I was thinking  
12          about it that I may have put my friend in a potentially  
13          and inappropriately embarrassing situation in that  
14          these witnesses are clearly extraordinarily careful  
15          about how they answer things, and I don't want them  
16          going through that with a nitpick and, as a matter of  
17          fact, given that I have basically covered the  
18          particular area of concern, I don't really care if they  
19          do it at all and I am quite willing to withdraw the  
20          questions.

21                   I think there is some danger that they  
22          would come back and say: Well, I would have put it  
23          slightly differently or this way or that way, and  
24          taking into account the purpose of counsel's opening  
25          remarks, that is clearly not what I am looking for and



1 I have obviously caused a little more stir than I  
2 intended.

3 So I am just quite content to just leave  
4 it the way it is now and not have them worry about  
5 answering the question.

6 THE CHAIRMAN: All right. I think we all  
7 have enough to read without having to do extra  
8 homework. So we will consider that request withdrawn.

9 Mr. Freidin, can you give us any  
10 indication as to how long you expect to be in direct  
11 with Panel 5?

12 MR. FREIDIN: One or two days. I would  
13 say two at the outside, we are looking at around a day  
14 and a half.

15 THE CHAIRMAN: So we have an expectation  
16 of maybe finishing the direct on Panel 5 next week?

17 MR. FREIDIN: Yes. I am just wondering,  
18 again, can we get any indication from people how long  
19 they might be in cross-examination on that panel when  
20 we have the evidence, again, because it will affect the  
21 timing for 6, getting those people geared up.

22 I am just wondering if people can give a  
23 ballpark estimate now.

24 THE CHAIRMAN: Do you have any idea, Mr.  
25 Tuer, not having heard a word?

1 MR. TUER: I won't be any time at all  
2 because I won't be here to cross examine.

3 THE CHAIRMAN: If only we could count on  
4 more like you we would probably finish earlier.

5 MR. FREIDIN: Mr. Cosman will be here.

6 THE CHAIRMAN: I understand that.

7 MR. TUER: I really have no idea, for  
8 that reason.

9 THE CHAIRMAN: Okay.

10 Mr. Castrilli, have you given any  
11 consideration, bearing in mind, all of you, that that  
12 was the panel upon which you were going to agree in the  
13 first place?

14 MR. CAMPBELL: I didn't send in any  
15 interrogatories. I want that recorded.

16 MR. CASTRILLI: Mr. Chairman, it is a bit  
17 difficult at this stage. I would think at least a half  
18 a day at this point.

19 THE CHAIRMAN: Well, if you use the trial  
20 rule of thumb, "x" number of days for "x" number of  
21 days in direct, you are probably -- it is reasonable we  
22 would finish off the next week easily with Panel 5.

23 MR. CAMPBELL: Mr. Chairman, I might just  
24 give my friend Mr. Freidin my estimate as well. I  
25 would like to sort of reserve an hour just because I am

1 cautious, but I could -- and in the scheme of things  
2 that is relatively insignificant. I don't expect to be  
3 any significant time at all.

4 MR. FREIDIN: Just listening to those  
5 time frames for next week, I would be comfortable in  
6 telling Panel 6 people that they won't commence until  
7 the following week at the very earliest.

8 THE CHAIRMAN: You mean not the  
9 following -- not next week?

10 MR. FREIDIN: A week this coming Monday.

11 MR. CASTRILLI: What is going on?

12 THE CHAIRMAN: That is probably  
13 reasonable.

14 Thank you.

15 ---Whereupon the hearing adjourned at 2:10 p.m.,  
16 to reconvene on Wednesday, August 24th, 1988,  
commencing at 9:30 a.m.

17

18

19

20

21

22

23

24

25

(Copyright, 1985)













